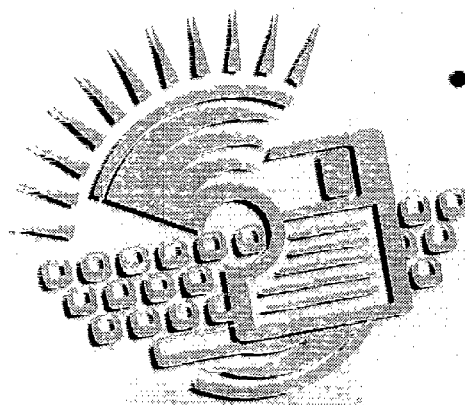


DRIVING WHILE INTOXICATED TRACKING SYSTEMS

**Volume 2:
State Tracking
System Descriptions**



**DWI TRACKING SYSTEM
VOLUME 2:**

**STATE TRACKING SYSTEM
DESCRIPTIONS**

STATE TRACKING SYSTEM DESCRIPTIONS

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I. BACKGROUND

I.A. Project Initiation & Scope

State legislators have taken to task the development of stiffer laws involving punishment, education, and treatment meant to deter drinking and driving. Citizens have formed effective oversight groups such as MADD to lobby for stiffer penalties actively. The federal government has sponsored several programs meant to stem growth in DWI rates, such as Campaign Safe and Sober, and state level sobriety checkpoints. Although data systems, such as the National Highway Traffic Safety Administration's (NHTSA) Fatal Accident Reporting System¹ and the Federal Bureau of Investigation's (FBI) Uniform Crime Report², provide empirical evidence that a DWI "problem" exists, effective *management* of DWI at a state level has long been overlooked by most states.

At Traffic Safety Summit II³, the judges and prosecutors who formed the panel "Group IV," pointed out that appropriate record keeping is vital to the successful functioning of local, state, and national criminal justice systems. They stated that DWI was of most concern to them regarding traffic safety because, among other reasons, it dominated their dockets and their time. Consequently, most of their discussions concentrated on records and record keeping related to DWI charges and dispositions. Furthermore, the members of "Group II" listed as a primary recommendation the "disposition of DWI cases speedily, consistently, and with the imposition of sanctions as a certainty."

Without DWI tracking systems, the ability to mount effective prevention, deterrence, and intervention programs is limited. Knowing the impact of its policies is impossible for an agency if a tracking system is not available to provide objective feedback. For example, legal sanctions can be mandated by state legislatures, yet assessing their impact is difficult if appropriate tracking information is not available about certain trends, such as sanction completion and recidivism. Moreover, an effective DWI tracking system can be a key enforcement and management tool that enables a reduction of administrative

¹According to the National Highway Traffic Safety Administrations, Fatal Accident Reporting System, 17,461 persons were killed in alcohol related traffic crashes in 1993.

²Federal Bureau of Investigation (FBI), US Department of Justice, Uniform Crime Report, 1993.

³US Department of Transportation, Traffic Safety Summit II, Orlando, FL June 2-4, 1991.

STATE TRACKING SYSTEM DESCRIPTIONS

burden for law enforcement, prosecutors, judges, court dockets, treatment centers, and others affected by drinking and driving. Greater administrative efficiency can also lead to enhanced record keeping and improved customer service capabilities.

To deal with DWI offenders better, a DWI tracking system can simplify and enable several core functions to be performed, such as:

- Identification of problem drivers.
- Determination of appropriate and equitable sanctions by prosecutors and judges.
- Effective evaluations of sanctions, penalties, fines, etc.
- Review of results for agency policies and the subsequent actions taken by other agencies.
- Tracking of DWI fines assessed and collected.
- Detection of attempts to circumvent the judicial and corrections systems.

The ability to perform the functions listed above was recognized to be among the critical advantages of a DWI tracking system during Traffic Summit II. Recommendations made by Group IV specified that states should adopt DWI tracking systems that consist of the following features:

- Standard forms and procedures for processing DWI arrests.
- Complete accountability system for DWI arrests.
- Excellent law enforcement, court adjudication and driver licensing data.

The use of standard forms and procedures would enable states to develop similar databases and DWI tracking systems. This could theoretically facilitate interstate cooperation on DWI tracking and provide the basis for national estimates of DWI statistics. Such estimates should include statistics, such as:

- Drivers arrested for DWI
- Number of arrestees convicted
- Sentencing frequency of certain sanctions
- Rate of sentence completion
- Number of repeat offenders

The recommendations emphasized the need for data of a quality, scope, and completeness that permit more efficient and effective program management and evaluation, beyond comprehensive traffic safety research.

I. B. Project Goals

Following the Traffic Safety Summit II meeting, NHTSA recognized that sufficient information regarding the general presence and condition of state level DWI tracking systems was unavailable. In addition, many at NHTSA have long recognized that national quantitative data regarding DWI statistics have never been collected or analyzed. NHTSA concluded that a qualitative study of existing DWI tracking systems would provide the traffic safety community with a snapshot of the systems pervasiveness. The public could then begin to understand the condition, or absence, of the systems currently being pursued by various state-level governments. NHTSA also determined that a quantitative study would serve as a baseline for the overall DWI offense picture, and it would allow detection of weak or nonexistent data capabilities. Based on these conclusions, NHTSA decided to pursue investigation of these areas and develop a document that addresses each of these concerns. This report is a product of that investigation.

The “DWI Tracking System” report comprises three, separately bound volumes:

- **Volume I: Design & Operation** is a qualitative analysis of state-level DWI tracking system designs and the operations that a DWI tracking system must support. In addition, Volume I includes extensive recommendations for system development with illustrative examples of specific state systems.
- **VOLUME II: STATE TRACKING SYSTEM DESCRIPTIONS** is a compilation of seven individual state descriptions of each state's respective DWI tracking systems reviewed for this report.
- **Volume III: DWI State Statistics** is a quantitative presentation of DWI estimates that are based upon state-level data provided by eight states

with DWI tracking systems. Many references and examples cited in brief in Volume I of this report are written in greater detail in the appropriate state description.

I. C. Project Methodology

As the first step in the evaluation of state DWI tracking systems, a separate study was conducted to determine the extent to which states maintained their own DWI tracking systems, if any. A DWI tracking system was defined as being able to assess DWI activity at the state level, or the ability to track an offender from arrest through sentence completion. All DWI tracking systems were reviewed whether they simply provided annual reports on statewide DWI activity, or were on-line, real-time systems providing up-to-the-minute information to law enforcement, prosecutors, and motor vehicle administrations.

Following the findings of the initial study, nine states said that a tracking system was maintained. While some of these systems were no more than offender information residing at the state's DMV, each of the tracking systems were reviewed. Virginia and Florida initially indicated the presence of a DWITS; however, a system description was not written due to scheduling conflicts. The tracking systems of each of the following seven states were studied for this report:

- California
- Louisiana
- Mississippi
- New Jersey
- New Mexico
- New York
- Utah

Capital Consulting Corporation (CCC) contacted each state to schedule information discussion meetings with DWI system managers. CCC focused on groups crucial to DWI such as law enforcement, court adjudication, motor vehicle administration, and post-adjudication. Initial meetings were scheduled with representatives from each of the seven states.

STATE TRACKING SYSTEM DESCRIPTIONS

CCC assessed the overall characteristics and design of the states' DWI tracking systems in order to complete each state level description. CCC attempted to understand the legislative basis for prosecuting DWI offenders, as well as the basis for building the DWI tracking system. In addition, system stakeholders were identified, along with specific system operating descriptions and information flows.

I. LEGISLATIVE BASIS

The California Vehicle Code Sections 23152 and 23153 address driving (a) under the influence and (b) with a BAC of .08 or more by alcohol and/or any drug, and §13353.2 addresses the California administrative *per se* law. Both the illegal and administrative *per se* law is 0.08 blood alcohol concentration (BAC) or breath alcohol concentration (BrAC) for adults, and .05 for those under age 21 .

California maintains both administrative and criminal laws designed to reduce DWI. The legislature passed an implied consent law (~23157) to administratively revoke or suspend a drivers privilege upon refusal to submit to chemical (blood, breath, or urine) testing if the individual is an adult with a BAC of 0.08 or more, or if the individual is under 21 years of age and has a BAC of 0.05 or more. Such individuals may also be "compelled" to submit to a blood or urine test for either alcohol concentration or the presence of drugs.

State Assembly Bill No. 757, approved by the Governor of California on September 14, 1989, required the California Department of Motor Vehicles to "establish and maintain a data and monitoring system...to evaluate the efficacy of intervention programs for persons convicted of those violations relating to alcohol and drugs, and to report thereon annually to the Legislature." The major aspects of the mandated system included the following functions:

- ▶ Development of a DWI recidivism tracking system data base.
- ▶ Ability to determine the efficacy of various intervention and sanction programs.
- ▶ Capability to report subsequent DWI reoffense status, alcohol involved accidents, and adjudicating court.
- ▶ Submission of an annual report.

Underage Drivers

Illegal *per se* law for drivers under the age of 21 is BAC of 0.05 or more. The sanctions for this offense are participation in either an alcohol education program or a community service program with an alcohol education component. If underage drivers are convicted of regular DWI laws, in addition to regular sanctions, they must participate in alcohol education or rehabilitation programs or lose their licenses until 21.

For underage drivers, if a preliminary breath test result indicates a BAC of 0.01 or more, driving privilege may be suspended for not less than one year. Restricted driving privileges are allowed based upon a critical need to drive. In addition, California Code §21200.5 makes driving a bicycle (pedacycle) on the highways while under the influence of alcohol or drugs illegal. For minors (under 21) who commits this crime, they are subject to license suspension under §13202.5.

Commercial Motor Vehicle (CMV) Operators

CMV operators are subject to criminal and license sanction for DWI with BAC of 0.04 or more. Refusals carry the same penalties as a non-injury DWI offense. Commercial driver's licenses may be "denied" for one year (mandatory) for driving under the influence of alcohol or a controlled substance; if transporting hazardous material, then denied for three years. For subsequent violations, there is a lifetime disqualification. CMV operators must be placed "out-of-service" for 24 hours if they have a BAC of 0.01 or more.

If commercial operators are convicted of administrative *per se* DWI laws while not operating CMVs, their commercial licenses are suspended for a mandatory 30 days followed by restricted driving privileges for five months.

I.A. Judicial Sanctions

Summary of Judicial Sanctions for DUI in the State of California			
Not all sanctions are included in this table, see text for more detailed descriptions.			
CA. Code: §§23152, 23153, 23155, 23157		Illegal Per Se: BAC 0.08; Underage BAC 0.05; CVO BAC 0.04	
DWI CONVICTION	JAIL	FINES / FEES*	LICENSE
1st Conviction	Non-Injury: 96 hours to 6 months (Min. 48 hours) Injury-Related: 90 days to 1 year (Min. 5 days)	Non-Injury & Injury-Related: \$390 to \$1,000 (Min. \$390)	Non-Injury: 90 days Suspension Injury-Related: 1 year Suspension
2nd Conviction (within 7 years)	Non-Injury: 90 days to 1 year (Min. 48 hours) Injury-Related: 120 days to 1 year in State Prison (Min. 30 days) and Home Detention	Non-Injury: \$390 to \$1,000 (Min. \$390) Injury-Related: \$390 to \$5,000 (Min. \$390)	Non-Injury: 18 months Suspension Injury-Related: 3 years Suspension
3rd Conviction (within 7 years) and Subsequent Injury-Related Convictions	Non-Injury: 120 days to 1 year (Min. 30 days) Injury-Related: 2 to 4 years in State Prison (Min. 30 days) and Home Detention	Non-Injury: \$390 to \$1,000 (Min. \$390) Injury-Related: \$1,105 to \$5,000 (Min. \$1,105)	Non-Injury: Revoked for 3 years; or 24 months if completing 18- or 30- month alcohol program* or uses ignition interlock Injury-Related: Revoked for 5 years; or 24 months if completing 18- or 30- month alcohol program* or uses ignition interlock
4th Conviction (within 7 years)	Non-Injury: 180 days to 1 year "Great Bodily Injury": Additional 3 Consecutive Years in State Prison		
*A license cannot be reinstated unless the defendant has completed the program. California has detailed revocation regulations dependent upon numerous conditional situations that are not fully discussed in this report.			

► Criminal sanctions are imposed based upon severity (non-injury versus injury) and repetition of the DWI offense. If an injury-related DWI offense injures more than one individual, an enhanced prison term of one year is added for each victim, with the maximum of three enhancements (§23182).

► A **first non-injury DWI** offense (with no previous DWI offenses¹) is subject to 96 hours to six months of imprisonment, minimum 48 hours with a fine of \$390 to \$1,000. A **first injury-related DWI** offense is subject to 90 days to one year imprisonment, with a fine of \$390 to \$1,000.

¹ Guilty or *nolo contendere* pleas to reckless driving (instead of a DWI) is also considered as a previous DWI offense.

- ▶ All first time offenders are required to complete either an **alcohol or drug education program**. Probation for subsequent offenders may be reduce some sanctions, and may require participation in a alcohol or drug education program.

- ▶ A **second non-injury DWI** offense (within seven years) is subject to 90 days to 1 year imprisonment, minimum of 48 hours served consecutively, with a fine of \$390 to \$1,000. A **second injury-related DWI** offense (within seven years) is subject to 120 days to 1 year imprisonment in State Prison, minimum 30 days, with a fine of \$390 to \$5,000.

- ▶ A **third non-injury DWI** offense (within seven years) is subject to 120 days to 1 year imprisonment, minimum 30 days, with a fine of \$390 to \$1,000. A **third or subsequent injury-related DWI** offense (within seven years) is subject to 2 to 4 years in State Prison, minimum 30 days, with a fine of \$1,105 to \$5,000.

- ▶ A **fourth or subsequent non-injury DWI** offense (within seven years) is subject to 180 days to 1 year imprisonment, with a fine of \$390 to \$1,000. If a **fourth or subsequent injury-related DWI** offense causes "great bodily injury" there will be an additional three consecutive years imprisonment in State Prison.

- ▶ A person, who kills another while operating a motor vehicle in an intoxicated condition, may be convicted of **second degree murder**.

- ▶ Government Code §27491.25 requires BAC test on persons killed in traffic accidents, including driver, passengers, and pedestrians.

- ▶ The "**Habitual Traffic Offender Law**" applies to driver who, within three years, (1) commits vehicular homicide and have two previous DWIs, (2) commits a third DWI, or (3) accumulates a negative driving record according to specified conditions. Habitual offenders are subject to specific criminal charges for traffic or criminal offenses.

- ▶ Ten days of **community service** many be served in lieu one period of 48 hours minimum jail sentence.

- ▶ **Child endangerment** for non-injury DWI offenses involving a passenger who is a minor under 14 may increase the minimum imprisonment time to 48 continuous hours for first offense, 10 days for second offense, 30 days for third offense, and 90 days for 4th offense.

- ▶ A mandatory 60 day imprisonment is sentenced if the driver is: (1) driving in a reckless manner, (2) DWI, and (3) driving over 20 mph over the posted speed limit.

- ▶ For second or subsequent DWI offenses within seven years, the court is mandated to require the use of an **ignition interlock device** for a period of one to three years, although

"in interest of justice" it may waive this requirement. Fines may be waived in lieu of payment for court mandated use of "ignition interlock" device as part of sentencing.

- ▶ Vehicles may be **impounded** for a DWI offense at owners' expense. For first offense impoundment is one to 30 days, and for second and subsequent offenses, one to 90 days.

- ▶ Vehicles may be subject to **forfeiture** if the DWI offense (or past DWI offenses) involves a DWI vehicular homicide.

- ▶ In addition to other fines and fees, offenders may be directed by the court to pay direct compensation to the victim(s) in injury-related DWI offenses. DWI offenders may be liable for these other costs incurred as a result of their injury-causing actions:

- Test Fee (alcohol chemical test)	Max. \$50.00
- Physician/Surgeon Assessment	\$2 per every \$10 in fine
- EMS Cost	Max. \$1,000
- Alcohol Program Assessment	Max. \$50 or \$75
- Special State Penalty (Fine)	\$10 per every \$10 fine
- Special County Penalty (Fine)	\$7 per every \$10 fine

- ▶ The first **refusal** of an implied consent chemical test results in a mandatory one-year license suspension; the second refusal within seven years, revocation for two years; and the third within seven years, revocation for three years. Cumulative offenses may also included DWI/Vehicular Homicide or administrative *per se* violations.

- ▶ A **preliminary breath test** (PBT) may be administered without legislative authority. There is non-mandatory one-year administrative license suspension for refusal, but there are no criminal sanctions for refusal of PBT.

- ▶ **Plea bargaining** is prohibited in serious DWI felonies unless there is a lack of evidence or if the reduction of charges would not result in a substantial change in sentence. Reasons must be given by the court if DWI criminal charges are reduced or dismissed.

- ▶ Participation in the **Drunk Driver Visitation Program**, may be required for all DWI offenses. With their consent and as part of probation, offenders visit trauma or hospital facilities to observe victims of accidents where alcohol was involved, or coroner's office, or alcohol treatment center.

- ▶ **Home Detention** may be used as an alternative to imprisonment, while the mandatory jail sentences are still imposed.

I.B. Administrative Action

- ▶ The **first administrative *per se* violation** results in license suspension for four months. After the 30 days mandatory period, offenders may drive during the remaining suspension only to attend alcohol treatment or education programs. Once the program is completed, an unrestricted license may be granted after 60 days of suspension.

Or

Offenders may request a 5 month license restricted to driving in the course and scope of employment, to and from work, and to and from treatment programs. Completing the treatment program thereby does not result in early removal of the restriction.

- ▶ The **second or subsequent administrative *per se* violation** within seven years results in a mandatory license suspension for one year.

- ▶ Administrative *per se* license suspensions and DWI (criminal) license suspensions run concurrently and cannot exceed the longer of the two periods.

II. SYSTEM STAKEHOLDERS

Law Enforcement Agencies (LEA)

DWI citations are issued by various law enforcement agencies within the state of California. Local LEAs, county sheriffs, and the California Highway Patrol (CHIPs) are primarily responsible for issuing DWI citations. Once a citation is issued, the ticket is delivered to the Department of Justice for data entry into the Monthly Arrest and Citation Register. As noted below, this is the primary avenue used by DMV in obtaining arrest information. CHIPs also maintains the Statewide Integrated Traffic Record System (SWITRS) which keeps information regarding automobile crashes.

Department of Motor Vehicles

The Department of Motor Vehicles (DMV) is the owner of the DWI Tracking System. The DMV is responsible for the administration of licenses and driver histories for California drivers. Individual driver histories are kept containing comprehensive data regarding personal, vehicle, insurance, and driving information. Certified, hardcopy DMV records are the only driver histories used as evidentiary information.

DMV does not receive notification of arrests for DWI. DMV only receives conviction reports from the courts along with confiscated driver licenses. With the exception of APS revocation orders served by law enforcement upon arrest for DWI, DMV delivers all notices of licensing actions. DMV also provides access to LEA to the most up-to-date license status of each California licensed driver.

DMV is responsible for publication of an annual report on DWI. As required by the state legislature, DMV publishes the "Annual Report of the California DUI Management Information System" It contains statistics on arrests, convictions, post-conviction sanctions, tracking of non-convicted DUI arrestees, alcohol treatment tracking and reporting, postconviction sanction effectiveness, administrative actions, and accidents involving alcohol.

Department of Justice

The Department of Justice (DOJ) compiles the Monthly Arrest and Citation Register (MACR) which DMV uses to determine drivers arrested for DWI. The file is provided monthly to DMV which runs name searches in an attempt to match arrestees to driver file records. The MACR is the primary basis for arrest information for California's DWI Tracking System.

Court System: Courts, Counsel, and Probation Agencies

Courts are required by statute (§1803 UC) to report abstracts of conviction to DMV within 10 days. Abstracts contain information on violation and conviction dates, sections violated, dispositions, and conditions of program. Abstracts are received electronically (magnetic tape or direct access update) or in hard copy form. Judges are authorized to order pre-sentence investigations (§ 23205) prior to sentencing. Probation, when granted, usually consists of

summary information, with no active follow-up by the court. The use of formal probation is rare in California due to budget constraints and cutbacks.

Education, Treatment, and Rehabilitation Facilities

Completion of an alcohol treatment program is required prior to reinstatement from any DWI related post-conviction license suspension or revocation. Drinking driver treatment programs are licensed and certified by the State Department of Alcohol and Drug programs, and consist of first-offender programs, SB-38 second offender programs, and 30 month third offender programs (in counties where such programs exist - currently only Los Angeles county). Length of treatment varies from 3 to 12 months for first offenders, 18 months for SB-38 second offenders, and 30 months for third time offenders. Programs consist of varying levels of individual counseling, education, and group interaction, with minimum levels prescribed by statute and regulation.

III. DUI TRACKING SYSTEM DESIGN & DEVELOPMENT

III.A. Description

The California DWI Tracking System is used to track DWI rates for statistical and reporting purposes by combining data from various systems into a single DWI Statistical System. The primary purpose of the DWI reporting system, as described in the 1994 report to the California legislature, is to "provide objective data on the operating and performance characteristics of the system for others to assess policy decisions, formulate improvements and conduct more in-depth evaluations."

Data is extracted from two sources: (1) the DMV Driver Record Files and (2) the Department of Justice's Monthly Arrest and Citation Register (MACR).

The DMV Driver Record files are made up of several input items including:

- ▶ Administrative *Per Se* Suspension / Revocation
- ▶ Accident Reports from the Statewide Integrated Traffic Records System (SWITRS)
- ▶ Court Dispositions
- ▶ Conviction of DUI Lesser Offense and from court abstracts of conviction
- ▶ Treatment Referral from court abstracts of conviction
- ▶ Treatment Dropout from court abstracts of conviction, and program provider records
- ▶ Post-conviction Suspension / Revocations of Driver Record and License Reinstatement.

The DOJ Monthly Arrest and Citation Register (MACR) is comprised of all reported arrests. Law enforcement agencies statewide notify the DOJ of arrests. DWI arrests contain specific codes on the MACR. The DWI Tracking System receives only the arrests associated with DWI. One problem that exists is the occasional irregular and infrequent reporting of arrests to the DOJ. Some law enforcement agencies do not maintain regular submission schedules, therefore, total arrests may vary.

The DWI Tracking System data flow is presented in . As shown in Figure 1 below, the first data is the arrest data obtained from the Department of Justice. The Automated Name Index System is used to match key identifiers from arrest records, to those of other records such as conviction and treatment data. Other data such as accident data, suspension data, and court abstracts are continually input into the DMV master file. From the DMV master file, all data extractions are performed.

California DWI - MIS

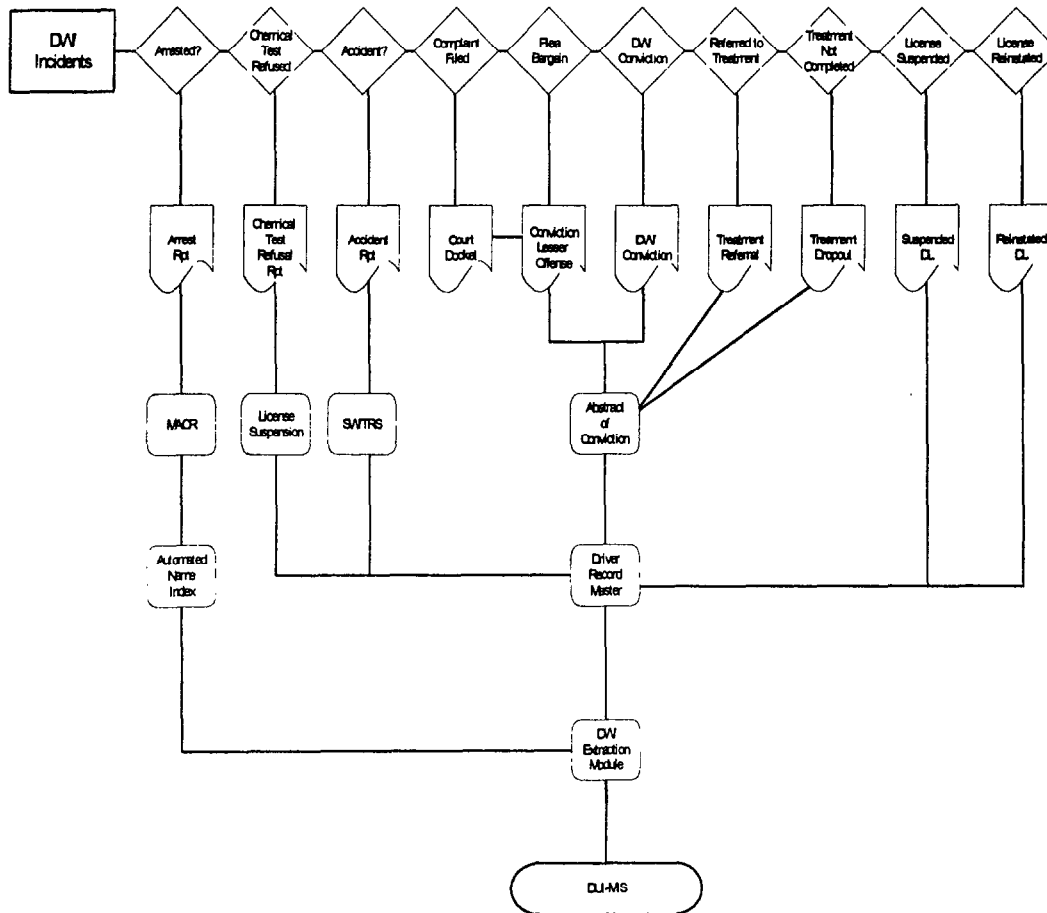


Figure 1

III.B. Design

The initiating point source of data for the DWI-MIS is the MACR. Data from the other sources identified above are eventually stored on the DMV driver file. These data originate from law enforcement, court adjudication, treatment centers, and license control. Various groups and agencies participate in the functioning of each of these source originations; depicting each groups activity is beyond the scope of this project.

The key issue in this statistical design is the information flow from independent data sources to the driver file (offender file) maintained by the DMV. There is no central body responsible for the timely submission of data or ensuring data quality or completeness. The DWI-MIS must rely on the information provided to the DMV driver file for matching identifiers to the DOJ MACR arrest file.

The DMV system is currently on an IBM mainframe, managed by the DMV. The DWI tracking system downloads information via a Sun computer for use on either a PC or Macintosh.

III.C. Database Access

Data from the DMV system are accessible to law enforcement agencies, courts, district attorneys, other state agencies, and taxing authorities. Some of the larger courts have direct access to the DMV system for purposes of entering court disposition data.

DMV provides information to employers, insurance companies, and car rental companies upon request. Currently, California residents desiring to rent an automobile in California may have their driving record reviewed by the renting agency. A special screen was developed that provides only the necessary information.

III.D. Development

System Economics and Management

The total MIS budget for developing the DWI tracking system was less than \$100,000. Total annual staff costs is approximately \$65,000 and computer processing is about \$35,000. One FTE was included in the original legislation at a total annual cost of about \$75,000. Original funding and system design was provided via 402 funds at \$95,000.

IV. CALIFORNIA'S CRITICAL PATH

IV.A. Arrest and Citation

In each of the following four areas, all aspects of the DWI process are recorded by DMV with the exception of arrests. Arrests are obtained independently from the DOJ, and require matching using name and date of birth as key fields.

Law Enforcement - Arrests

The data extraction is performed once a year, generally for the year two years prior. For example, the most recent report (dated January, 1994) extracted and analyzed 1991 arrest data during 1993. The initial source of information is the Department of Justice (DOJ) MACR report. These data are compiled by DOJ from law enforcement agencies statewide. DOJ provides the DMV with DWI arrests only, and furnishes the following data elements:

- ▶ Arresting Agency
- ▶ Arrest Date
- ▶ Misdemeanor/felony
- ▶ Name
- ▶ Date of Birth
- ▶ Race
- ▶ Sex
- ▶ Status (Cited/booked/other)
- ▶ Police Disposition

After receipt of the DOJ arrest data tape, DMV uses the Automated Name Index (ANI) system to match arrested DWI drivers to existing DMV driver files. The key variables in the matching process are name and date of birth which are matched to corresponding identifiers and to obtain the existing California drivers license number. If a match is not made, the DMV staff inspect the name field and modify it for possible variations (e.g., James could be Jim, or the middle name may be used as a first name in some instances). If the modified versions continue not to match, they are included in an unmatched record file, totaled by agency and county, sampled, and tracked back to the arresting agency to determine the disposition of the case by law enforcement. The matching names will be run against the DWI data extraction module to obtain all relevant data. Matching is performed by DMV staff on a regular basis. The estimate of the total time required to match the names to DL numbers is approximately 2 weeks per year.

Out-of-state drivers who are arrested in California on DWI charges are captured by the DMV. These drivers are given an "X" file in the DMV master file. For statistical reporting purposes, these individuals are not tracked since no DMV history exists and it is unlikely that a prior

arrest in California has been made. California drivers who are arrested out-of-state are monitored by DMV, however, they are not tracked for statistical purposes either. According to DMV staff, the out-of-state problem accounts for about 2% of all DWI arrests.

The DMV staff indicated that some minor problems exist in obtaining accurate arrest counts. The primary problems involve a department not reporting DWI arrests to the DOJ, or a department reporting arrests infrequently (e.g., one report covering two years). However, given the political sensitivity of the DMV DWI report, most departments who are cited as committing these offenses will either internally resolve the problem, or pressure from various legislators will alleviate any obstacles.

Law Enforcement - Administrative Per Se License Suspension/Revocation

Information needed to determine administrative per se license suspension are obtained by DMV by receipt of a law enforcement report. The data are entered into the DMV master file upon receipt. In addition, when an arrest is not matched through the ANI system as described above, the APS file is used to match the drivers license numbers since the file contains data on most DWI and alcohol-reckless arrests. According to DMV staff, about 70% of the 9% of unmatched arrests are matched with the APS file.

Law Enforcement - Accident

The California Highway Patrol maintains the Statewide Integrated Traffic Record System (SWITRS) that keeps information regarding automobile crashes. Part of the SWITRS data coding involves recognizing the use of alcohol or drugs. DMV extracts crash information for those drivers previously identified and matched as being arrested and/or convicted of a DWI offense.

Adjudicative

Court abstracts that contain all DWI conviction data are sent to DMV on a regularly basis by each court. The data are delivered in either hardcopy form, magnetic tape, or direct access. The larger courts in the state have direct access where their court clerks enter data directly onto the DMV master file. If data are delivered in hardcopy form, the DMV staff perform the data entry. The courts are mandated to send in the information within 10 days of the ruling; however, the DMV staff indicated the average time is approximately 3 months. This time lag, while possibly affecting the DMV system objectives, will not affect the DWI tracking system since only historical data is extracted and analyzed.

Abstract items reported to DMV from the courts include:

- ▶ Violation and conviction date
- ▶ Court disposition (e.g., dismissed, bail, fine, traffic school, etc)
- ▶ Jail time sentenced (not necessarily time actually served)

- ▶ Docket or Citation number
- ▶ Location of Court.

Actual jail time served and fine monies assessed or collected are not obtained by DMV. No statistical or enumerated data illustrating the total impact of these variables is collected.

The DOJ MACR lists only the highest level offense in their reporting system. Therefore, if an individual is arrested of both grand theft auto and DWI, the DWI will not appear on the DOJ system. This means that a DWI conviction could appear without a corresponding arrest. According to the DMV staff, this is a small problem percentage wise.

Treatment

After an individual is assigned to complete a treatment program, the court is mandated to provide the DMV with treatment information on the court abstract. Once the individual is enrolled in a treatment program, the program is required to notify both the court and DMV of "dropouts". The notification is provided to the DMV staff in hardcopy form. § 23161e3 mandates that the County Alcohol Program Administrators work with the courts, DMV, and the Department of Alcohol and Drug programs to establish a reporting system on program enrollment and completion.

One key to the California program in terms of completion rates for treatment participants is that repeat offenders must show a certificate of completion to DMV prior to re-licensing. If the participant drops out, a drivers license will not be re-issued until the individual satisfactorily completes the treatment program. In addition, post-conviction license suspension can be avoided by completing various education programs.

License Control

The DMV master file contains information on the status of individual driver licenses. After administrative per se or implied consent laws have been applied, DMV receives the information from the law enforcement agency. The information is entered into the DMV system and changes to the license status are made after specific license control actions have been administered (e.g., APS or implied consent hearings). Individuals have the right to an administrative hearing to allow DMV to consider the merits of their case.

System Sampling

System sampling was part of the original DWI system design. Two aspects of the system were sampled:

- ▶ Nonconvictees
- ▶ Alcohol Treatment Programs

System sampling has not been incorporated into each annual report due to the extensive labor time and effort required to perform the sampling functions. The sample was conducted primarily through on-site research of court records, attorney records, treatment program provider records, and law enforcement records. The DMV staff indicated that the study will be performed again only at the request of special legislation or the need to re-investigate specific issues.

Nonconvictes are individuals who were listed on the DOJ report as having been arrested for DWI where no conviction of any offense was found. In 1990, 23% (83,000) of all arrests did not have an associated conviction. Therefore, the DMV decided to implement a sampling plan to determine the overall impact of these nonconvictes. A random sample of 1,000 arrestees were selected (911 were actually researchable).

The reasons for apparent nonconviction as found by the study are as follows:

Reason	Frequency	Percent
Convicted/No Report	340	37.3
Failure to Appear	302	33.2
No Complaint Filed	60	6.6
Dismissed	56	6.1
No Record Anywhere	53	5.8
Bench Warrant Arrest	39	4.3
Adult Released	34	3.7
Record Lost	16	1.8
Other	11	1.2

Alcohol Treatment Program tracking is designed to enable the DMV staff to assess the accuracy of program enrollment, completion, and dropout reports. For the DMV 1993 report, a sample of 1,000 individuals who were sentenced to complete a treatment program in 1990 were chosen for analysis. The breakdown of arrestees were as follows: 1st offenders (490), 2nd offenders (410), 3rd+ offenders (93), and APS arrest only (7).

A key finding was that only 54% of the subjects could be identified on both the court and alcohol program records. Of the 46% not found, 44% were actually enrolled in a program. The DMV surmised by this that a significant portion of these offenders failed to enroll in any program and escaped any court detection of this. Other findings indicated that DMV severely underestimates the number of program dropouts.

This sampling study was also conducted only once due to the labor intensity of the data gathering and analysis.

I. LEGISLATIVE BASIS

The Louisiana Code specifies both judicial and administrative actions to be taken for DUI arrests and citations. Louisiana R.S. 14:98 contains the language applying to criminal sanctions and Louisiana R.S. 32:661-669 (The Implied Consent Law) covers the Civil Sanctions. The laws cover driving under the influence of alcohol, narcotic drugs, central nervous system stimulants, hallucinogenic drugs or barbiturates; implied consent to chemical tests; administering of test and presumptions; affect of refusal to submit to tests; informing person of consequences of refusal and his rights; furnishing information to person tested; procedures following revocation or denial of license; hearing; court review; review of final order; restricted licenses; suspension of nonresident's operating privilege, and notification of state of residence. The Code establishes a BAC of 0.10% or greater as illegal *per se* in the State of Louisiana. For drivers under 18 years of age the limit is a BAC of .04. For Commercial Drivers a BAC level of .04 or greater exceeds the legal limit. R.S. 14:98 establishes the driving offenses for operating a vehicle while intoxicated.

I.A. Judicial Sanctions

Summary of Judicial Sanctions for DWI in the State of Louisiana Not all sanctions are included in this table, see text for more detailed descriptions.					
Louisiana R.S.: §§14:98, 32:661-669			Illegal Per Se: 0.10 BAC; Underage 0.01 BAC; CVO 0.04 BAC		
DWI CONVICTION	FINES / FEES	JAIL (Mandatory time must be consecutively served)	COMMUNITY SERVICE	TREATMENT	DRIVER IMPROVEMENT PROGRAM
1ST Misdemeanor	\$150 - \$500	10 days to 6 months	Four 8-hour days	As designated by the court	As designated by the court
2ND Within 10 Yrs Misdemeanor	\$600 - \$1,500	30 days to 6 months	Thirty 8-hour days	As designated by the court	As designated by the court
3RD Within 10 Yrs Felony	Up to \$2,000	One year to more than five years with or without hard labor	None	As designated by the court	As designated by the court
4TH or More Within 10 Yrs Felony	None	10 to 30 years hard labor	None	None	None

► A person who operates a motor vehicle upon the public highway, public roads and streets of Louisiana is deemed to have given his consent to a chemical test or test of his breath for the purposes of determining the alcoholic content of his blood (**Implied Consent**)

Law). Operation of a vehicle under the influence of any substance or drug or controlled substance which impairs functioning is illegal.

- ▶ First or second time violations are **misdemeanors**. A third or subsequent offense is a **felony**.

- ▶ Refusal to submit to a chemical test can not be admitted into evidence in a civil action, but is admissible in criminal cases and can be used in administrative license actions.

- ▶ As part of sentencing, the court, upon **first conviction**, shall impose a fine of not less than \$150 and not more than \$500. In addition the court shall order the offender to complete one of the following:

- 10 days to 6 months in prison, or
- Serving a minimum of 2 days in jail and participating in a substance abuse and driver improvement program, or
- Performing a least four, eight hour days of community service and participating in a substance abuse and driver improvement program.

- ▶ A district court may overrule the 90-day driver license suspension period by requesting the issuance of a restricted hardship license for the entire 90-day period.

- ▶ When the defendant has been convicted of a misdemeanor the court may suspend the imposition or the execution of the whole or part of the sentence imposed and place the defendant on unsupervised or supervised **probation** upon such conditions as the court may fix where suspension is not prohibited under the law. Such suspensions of sentence and probation shall be for a period of two years or shorter periods as the court may specify.

- ▶ Upon a **second conviction**, the court shall impose a fine of \$300 to \$1,000 dollars and one of the following options:

- 30 days to 6 months in prison, or
- Serving a minimum of 15 days in jail and participating in a substance abuse and driver improvement program, or
- Performing a least 30, eight hour days of community service and participating in a substance abuse and driver improvement program.

- ▶ Upon a second conviction, the court may not overrule the 12-month driver license suspension by providing a restricted hardship license.

- ▶ Louisiana does not have a statute which requires a mandatory jail sentence for driving on a suspended/revoked license.

► Provisions relating to the sentencing of criminal law offenders either to **community rehabilitation** centers or "**home incarceration**," apply to persons convicted of DWI offenses. However, persons convicted of a 2nd or subsequent DWI offense, within 5 years, are not eligible for "home incarceration" until they serve a minimum of 48 consecutive hours of imprisonment.

► The time periods used to determine whether **enhanced sanctions** will be imposed on 2nd or subsequent offenses are not the same for criminal sanctions (jail or fine) and for administrative ones (license suspensions). In order to impose enhanced criminal sanctions based on prior DWI offenses, the prior offenses all must have occurred within 10 years of the present offense. In order to impose enhanced administrative sanctions based on prior DWI offenses, the prior offenses all must have occurred within 5 years of the present offense.

► A **third and subsequent violations** are felonies. For third convictions, within 10 years, the court can impose a fine of up to \$2,000. In addition, it shall impose one of the following options:

- 1 to 5 years of imprisonment with or without hard labor, or
- Serving 1 to 5 years in prison (a minimum of 6 months) and participating in a substance abuse and driver improvement program.

► At least 6 months of the sentence of **imprisonment** imposed shall be without benefit of probation, parole, or suspension of sentence. If a portion of the sentence is imposed with benefit of probation, parole, or suspension of the sentence, the court shall require the offender to participate in a court-approved substance abuse program and/or participate in a court-approved driver improvement program.

► The court may require a person, who has been placed on probation for a 1st, 2nd, or 3rd DWI offense, to only operate motor vehicles equipped with **ignition interlock devices**.

► For **fourth convictions**, within 10 years, the court shall impose a sentence of 10 to 30 years imprisonment and hard labor.

► The court may suspend for the first felony conviction only the imposition or execution of any sentence, where suspension is allowed under the law and in either case place the defendant on probation under the supervision of the division of probation and parole supervision. The period of probation shall be specified and shall not be less than one year nor more than five years.

► If the sentence consists of both a fine and imprisonment, the court may impose the fine and suspend the sentence or place the defendant on probation as to the imprisonment. The court can not suspend a felony sentence after the defendant has begun to serve the sentence.

- ▶ Louisiana does not have an **anti-Plea Bargaining Statute**. Consequently, a DWI charge may be reduced. In addition, there is no mandatory **Adjudication Law**. Under Article 894, if an individual has been convicted of a misdemeanor and has not been convicted of any other offense during the period of court imposed suspended sentence and has no criminal charge pending, the court may set aside the conviction and dismiss the prosecution. When this occurs, the DWI conviction is removed from the driver record available to the public. It remains on the record available to the court, Law Enforcement Agencies and Office of Motor Vehicles. It may be considered as a first offense and provide the basis for subsequent prosecution of the individual as a multiple offender. An individual can only use Art. 894 once in any 5 year period.

- ▶ **Vehicular homicide** receives a fine of \$2,000 - \$15,000 and imprisonment for not less than 2 years or not more than 15 years.

- ▶ A **Vehicular Negligent Injury** receives a fine of up to \$1,000 and/or imprisonment of up to 6 months.

- ▶ For persons under 21 years of age, it is illegal to buy, consume, or have an alcoholic beverage in their possession.

I.B. Administrative Actions

- ▶ In addition to the fines or sentencing requirements imposed by the courts, individuals are subject to **mandatory suspension** of the driver license imposed by the Department of Public Safety and Corrections.

- ▶ After a **first offense conviction** the Department mandates a 90-day suspension of driving privileges. Upon expiration of the suspension period, a \$100 dollar reinstatement fee plus the cost of the license is required providing no other suspensions are on the record. Upon expiration of suspension, an SR-22 must be filed and maintained for 3 years from date of conviction.

- ▶ After the **second offense conviction** the Department mandates a 1-year mandatory suspension period of driving privileges. Upon expiration of the suspension period, a \$200 reinstatement fee plus the cost of the license is required, providing no other suspensions are on the record. The SR-22 must be filed and maintained for 3 years from date of conviction.

- ▶ After **convictions for the third and subsequent offenses** the Department mandates a 2-year suspension of driving privileges. At the conclusion of the suspension period, a \$300 reinstatement fee plus the cost of the license is required, providing no other suspensions are on the driving record. The SR-22 must be filed and maintained for 3 years from date of conviction.

► If an offender **refuses** (first refusal) to take the DWI test and is convicted, the Department mandates a 6-month suspension of driving privileges. A hardship license to earn a livelihood may be issued after 90 days have been served and there are no prior suspensions. The second refusal paired with a conviction mandates a 18-month suspension of driving privileges.

► **Convictions in other states** of violations for driving or operating a vehicle under the influence of an intoxicating liquor are counted for the purposes of determining if a violation is first, second, third or a subsequent offense.

► Any person who drives with a **canceled, suspended or revoked license** will receive an additional year of suspension at the end of the original cancellation, suspension or revocation. If convicted in another state of an offense which would be grounds for suspension or revocation in Louisiana, the license is suspended in Louisiana. A driver with a suspended Louisiana license can not use another state license to drive in Louisiana.

► The Department of Licensing may suspend a person's license if they have "committed" an offense which usually requires license revocation (e.g., vehicle homicide)

► A **Commercial Driver** may have his license privileges to operate a Commercial Motor Vehicle (CMV) suspended for one year if, while driving a CMV, he has a BAC/BrAC/URAC level of 0.04 or more. For the second offense the suspension is for life. If a CMV operator is disqualified from operating a personal vehicle, he/she is also disqualified from operating a commercial motor vehicle.

II. SYSTEM STAKEHOLDERS

Department of Public Safety

The Louisiana Department of Public Safety & Corrections is responsible for administering the licensing part of the state's Implied Consent Law. Within the Department are Offices of State Police, Motor Vehicles, and Louisiana Highway Safety Commission, among others. The Office of Motor Vehicles is mandated by statute to maintain records of all reported moving traffic convictions received from Louisiana courts and out-of-state licensing jurisdictions on Louisiana residents. The Department is responsible for maintaining driving records of suspensions, disqualifications, cancellations and denials of driving privileges. Classes of licenses involved include commercial drivers license, chauffeurs license, and personal vehicle drivers license. To provide these services, there are 85 offices strategically located throughout the state. Records for approximately 5 million drivers are maintained on the Department's driver records system.

The Office of Motor Vehicles receives approximately 1,000 court requests for certified driving records monthly. All request are fulfilled through the preparation of Form 101 which involves research of microfilmed or imaged documents, archived electronic records, and photo reproduction. About 20 personnel in the Driver Management Bureau key in citation data and perform other tasks such as sending out suspension notices and responding to information requests.

Drivers license are issued using an unique seven number identifier for the driver license system. The state traffic records system is designed so that driver records are the main files where historical information on infractions, arrests, suspensions, revocations, etc. is maintained. The Louisiana DUI tracking system is a subset of this larger driver license database. The input and extraction of data and information occurs primarily by the use of hardcopy documents which are keyed into the database. Some automated uploading is done by large courts in the state.

Law Enforcement Agencies

Louisiana's LEAs involved in arresting DUI offenders include Sheriffs Offices, City Police/Others, and the Highway Patrol. Other authorities who make arrests include Fish and Wildlife Wardens and Causeway Bridge Police. In 1992, these agencies made 19,133 DWI arrests, and in 1993 they made 22,064 DWI arrests.

Court System

DWI citations are handled by Municipal, City, and District Courts. District court decisions can be reviewed by the Court of Appeals. Municipal and City courts handle first and second DWI's which are misdemeanors. District courts handle most DWI felony offenses. DWI

offenders arrested by the Sheriffs and the State Police are general tried by the District Courts. In some areas, juveniles and youth having DUI offenses are tried in Juvenile Courts.

Training and Rehabilitation Facilities

The court-approved substance abuse programs provide services including a screening procedure to determine which elements of the program are appropriate for each offender. The community service activities may include duties in any morgue, coroner's office, or emergency treatment room of a state-operated hospital or other state-operated emergency treatment facility.

The Department of Health and Hospitals may work with the courts to provide some of the Substance Abuse Treatment Programs. Some Hospitals also participate in the Community Service Program. In general, the driver improvement program is usually provided by local law enforcement.

Probation for felony DWIs is generally provided by the State Department of Public Safety and Corrections. They hire and supervise the parole officers. For misdemeanor DWIs the local court provides or contracts for offender management services. Because of low funding and high workloads, some local courts are using volunteers to perform some of the routine probation functions.

III. DUI TRACKING SYSTEM DESIGN & DEVELOPMENT

In Louisiana a total of about 22,064 DWI arrests were recorded in 1993. Of these, about 20 percent were non-Mississippi drivers.

III.A. Description

The DWI system is part of the traffic records system which is maintained by the Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles (OMV). Other users of the system within the Department of Public Safety and Corrections include the Louisiana Highway Safety Commission which publishes an annual report entitled *Louisiana Traffic Records Data Report*. The traffic records system is a offender based system which tracks the driving record of every individual holding a Louisiana State driver license. The Commissioner of the Department of Public Safety and Corrections is required by law to keep records of licenses and permits issued, revoked and suspend licenses, perforated sections from trial judges, and other information deemed necessary to carry out provisions of the law. As a consequence, the official traffic records are maintained by the department and the driver histories are utilized by the courts as the official records.

III.B. Design

From 1971-72 convictions were the first pieces of information gathered and entered into an automated database. In 1975 the conviction file and accident information were entered and placed on a Unisys 1100. In 1980 the drivers license information was automated and outlying offices were placed on-line with the system. This was followed by moving the databases to a Honeywell mainframe in 1981-82. In 1985-86 the compulsory insurance laws were passed and the driver records files were moved back and combined with the Unisys Information system. In 1986 the Driver License issuing information was merged with the Driver Management Bureau driver record information.

III.C. Database

The Louisiana DUI Tracking System is a subset of fields extracted from the Driver's License File (DDL). Many convictions can be captured for each driver. The conviction fields contained in the DDL record are as follows:

DM-CONV-TICKET-DOB	DM-CONV-OVERRIDE-DAYS
DM-CONV-KEY	DM-CONV-CDL-OVERRIDE-DAYS
DM-CONV-DATE-CONVICTED	DM-CONV-MICROFILM
DM-CONV-DATE-VIOLATION	DM-CONV-SUB-BEGIN
DM-CONV-VIOLATION-CODE	DM-CONV-SUS-END
DM-CONV-CDL-VIOL-CODE	DM-CONV-CDL-SUS-BEGIN
DM-CONV-CDL-DISQ-CODE	DM-CONV-CDL-SUS-END

DM-CONV-SUS-REINSTATED	DM-CONV-CDL-REINSTATED-F
DM-CONV-SR-22	DM-CONV-CDL-PENDING-F
DM-CONV-FEE-AMOUNT	DM-CONV-CDL-PICKUP-F
DM-CONV-DISP-CODE	DM-CONV-COURT
DM-CONV-COMMERCIA-VEH	DM-CONV-STATE
DM-CONV-HAZMAT	DM-CONV-CDL-DAYS-SUSP
DM-CONV-WITHDRAW-EXT	DM-CONV-DAYS-SUSP
DM-CONV-FLAGS	DM-CONV-ACT-SP
DM-CONV-CANC-F	DM-CONV-PSTD-SP
DM-CONV-DENIAL-F	DM-CONV-TICKET
DM-CONV-REVOKED-F	DM-CONV-ISS-AGY
DM-CONV-SURRENDER-F	DM-CONV-ARREST-PARISH
DM-CONV-SUSPEND-F	DM-CONV-ARREST-CITY
DM-CONV-DISQUAL-F	DM-CONV-ARREST-CITY-PAGE
DM-CONV-REINSTATE-F	DM-CONV-ARREST-CITY-CODE
DM-CONV-DELETE-F	DM-CONV-VIOLATION-CHG
DM-CONV-PENDING-F	DM-CONV-LIC-DISP
DM-CONV-FEE-F	DM-CONV-CDL-LICIDISP
DM-CONV-HEARING-F	DM-CONV-COMPLIANCE
DM-CONV-PET-JUD-F	DM-CONV-FEE-DATE
DM-CONV-HAB-OFF-F	DM-CONV-ACCD-SEVERITY
DM-CONV-HARDSHIP-F	DM-CONV-OLD-COURT
DM-CONV-COM-OOS-F	DM-CONV-BAC
DM-CONV-OTH-INVALID-F	DM-CONV-DL-ISSUE-DATE
DM-CONV-PICKUP-F	DM-CONV-CREATE-OFC
DM-CONV-DL-ATTACHED	DM-CONV-FILLER
DM-CONV-TEMP-ISSUED	

Other data fields that are captured in the Driver Master file including factors such as date of birth, sex, address, etc. The presence of these fields enables one to generate reports, using the Driver Master file, which identify characteristics of the DUI population.

The conviction file is used by DPSC management to determine conviction records pending after 30 days by which time the court should have already report the trial results to DPSC.

Louisiana recently decided to maintain DWI convictions on the driver record for 10 years. This will enables the courts to use the driver record in determining sanctions using the 10 year period.

III.C.1. Standard DUI Reports

Reports from the driver license system are obtained by the use of programs developed to provide summaries and extracts. The Louisiana Traffic Records Data Report is published annually and contains information regarding DWI arrests, convictions and involvement in injury and fatal accidents.

III.C.2. Driver Record

Within the Driver License System, each driver record is identified by the individual's unique number generated by the state of Louisiana. Complete driver information including convictions, bond forfeiture for DWI, driving with a suspended or revoked drivers license, and Article 894s are recorded in the driver license record for each individual. Two types of driver records are used.

The Official Driving Record does not contain convictions for which the benefits of Article 894 have been invoked. In addition, it does not contain the suspension for the offense once the suspension has been served and the required fees have been paid. This Record is available on-line for Insurance companies who can review the main violations, accidents, and DWI information for the past three years. It is also available as public information to anyone wishing to purchase a copy.

The Administrative Driving Record does contain both the conviction and suspension for which an Article 894 was invoked. This record is available for use only to DPSC, LEAs and the courts.

Out-of-State License - If the driver possesses an out-of-state license, the arresting officer takes their drivers license and issues a temporary driver permit for Louisiana. The driver must abide by all the requirements of the DUI citation. If within 30 days the driver fails to appear before court, the home state of the driver is notified of the citation and arrest. Subsequent identification of the driver in the State of Louisiana will result in re-arrest for the original offense, otherwise no further action is taken.

Out-of-State DWI drivers, if arrested for DWI in Louisiana are given a Pseudo driver license Number and treated as if they were a Louisiana driver under the interstate compact. Consequently, Louisiana can provide information on out-of-state DWIs which occur in Louisiana. Under the Interstate Compact, out-of-state drivers attend first offender sanctions as determined by the court in Louisiana and get their license reinstated in their home state. During this period of time they drive on a temporary Louisiana permit. Once sanctions have been completed, the driver's license, citation, and related information are sent to the drivers home state to initiate license reinstatement.

If a Louisiana driver is arrested and convicted for DWI while out-of-state, the offense is entered on his/her record and counts as if it were an offense which had occurred within Louisiana.

III.C.3. Database Access

The system is available to provide driving records to officers in the field, the courts, insurance agencies, state agencies, etc. LEAs can review the a driver record using the abstract screen which provides detailed information for the last 10 years. This non-public administrative record is used by the courts, Office of Motor Vehicles and LEAs and contains additional information regarding, among other things, 894 actions. As indicated before, there is also a public record which is available to anyone requesting it.

III.D. Development

As the state legislature and federal government required more record keeping, the Louisiana traffic records system grew and expanded to meet the need. At the present time programming efforts are directed at bringing on-line the National Problem Driver Pointer System.

OMV System Management

The traffic records system is managed by the Driver Management Bureau. Some larger cities, such as New Orleans, key ticket information into an automated system and then upload it to the Driver Record file. For most small jurisdictions in Louisiana hardcopies are sent to OMV, Driver Management Bureau, and then keyed into the traffic records system.

III.E. Future System Enhancements

In the future, it is hoped that the information systems of the courts and Office of Motor Vehicles can exchange information throughout the entire state. Some of the major software work to help reach this objective will probably be done during 1996. In addition, fields will be added to the database so that information regarding area of arrest and arresting agency can be tracked. Additional programming enhancements are hoped for which would allow analysis of courts by the sanctions utilized with DWI cases. Louisiana's programming resources are presently be heavily utilized to bring on-line the national Problem Driver Pointer System.

Improvements mentioned above will enable OMV and the courts to track a DWI offense from arrest through suspension and reinstatement. The envisioned intersystem operability between the courts and OMV will be efficient and enhance the capabilities of all stakeholders to meet their information needs.

IV. LOUISIANA'S DUI CRITICAL PATH

Due to its dynamic functional relationships, the Louisiana DUI Tracking System needs to be described in context with the sequence of procedures that comprise the Critical Path. Along the Critical Path, there are several points of information exchange and various paths of information flow that make the administrative and judicial systems more effective. To help clarify these complex relationships, the explanations of both procedural processes and information flow are illustrated with flow diagrams and summarized in text boxes.

UNDERSTANDING THE FLOW DIAGRAMS

The flow diagrams illustrate both the sequence of procedures and exchange of information involved in the Critical Path of a DUI offender. The procedural steps comprising the Critical Path are colored in **black**, the data and information accessed by state organizations (*i.e.*, LEA, court, etc.) are colored in **red**, and the new data and information that is used to update the system database are colored in **blue**. Furthermore, the communication paths indicating information access and input are distinguished as electronic transfers (solid lines) or hardcopy submissions (dotted lines). Since access and data collection are the key aspects of a successful tracking system, the significance of electronic versus hardcopy reporting will be discussed, also.

IV.A. Arrest

Law Enforcement Agencies empowered to cite and to arrest DUI drivers: officers from city, parish, and state police jurisdictions. In addition, other policing authorities such as campus police, state parks police, and water supply district security officers make DUI arrests.

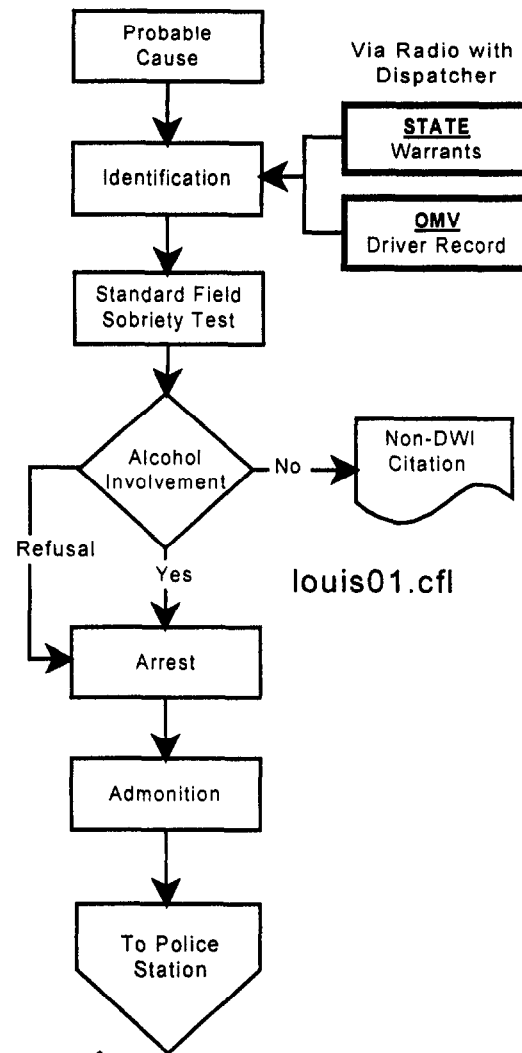
Identification - During the arrest, the arresting officer communicates with the LEA dispatcher to access on-line information such as driver records, criminal records, the national Problem Driver Pointer System, and warrants for arrest.

Standard Field Sobriety Test - The officer can give a preliminary unofficial "on-the-spot" test to establish whether or not the breath of the driver is free from any alcoholic content before the official test is made. The Health and Human Resources Administration established and promulgated careful detailed methods, procedures and techniques concerning the repair, maintenance, inspection, cleaning, chemical accuracy, and certification of photoelectric intoximeters used by LEAs.

Admonition - During the arrest, information regarding the consequences of testing along with his/her constitutional rights, and the right to have an optional additional test completed as his/her expense is given to the offender.

Intoxilyzer Test - At the police station, if a person refuses, upon the request of a law enforcement officer, to submit to a chemical test of his breath, the law enforcement officer informs the person that he is subject to arrest and punishment consistent with the penalties prescribed for persons submitting to the test.

Refusal - In addition, if this is the first reported refusal to submit, the suspension will be 180 days instead of 90 days suspension for the first DWI offense. A second or subsequent reported refusal to submit will result in a 545 day suspension. When confronted with a refusal an officer must have a good field sobriety test and probable cause for the charge to be sustained in court. If the court



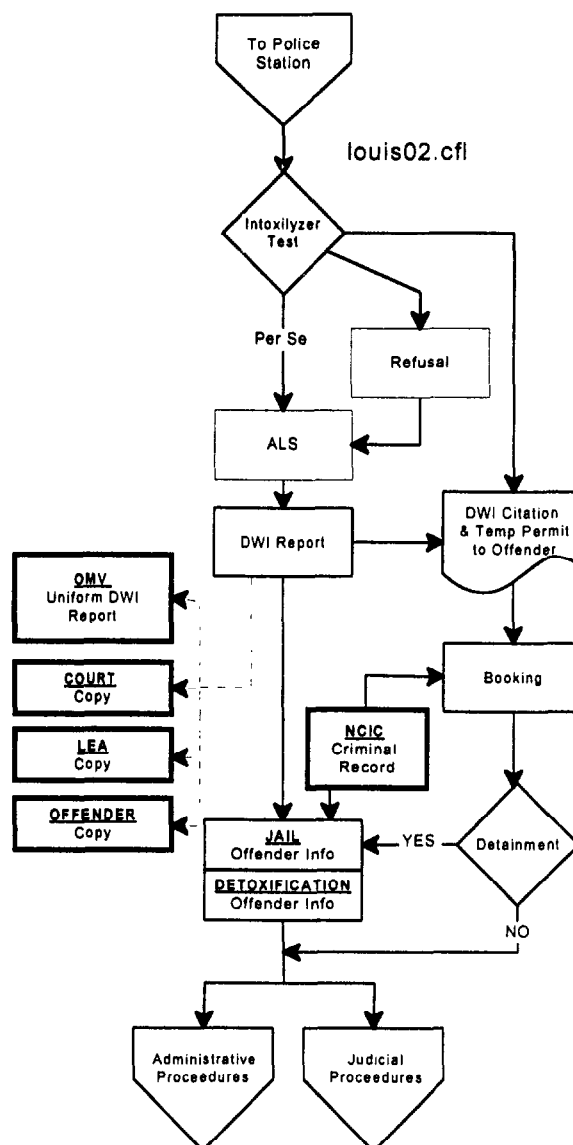
finds the defendant not guilty, the Office of Motor Vehicles returns the defendant's driver license.

A driver may not refuse to submit to a chemical test if they have been involved in a traffic fatality or accident resulting in a serious bodily injury. The law enforcement officer may direct that a chemical test be performed. Such a test may be performed even without the consent of the driver.

License Suspension - The Louisiana license of an arrested driver is relinquished to the arresting officer, and a 30-day temporary permit is issued to the driver. This 30-day interim allows for the court to act upon the DWI citation; offenders have 10 days to request a hearing to contest the suspension. Upon receipt of satisfactory evidence of a conviction the Department of Public Safety and Corrections suspends the license of an offender. It must investigate the need for a license to earn a livelihood. If the Department finds there is a need in can reinstate the license using restricted driving privileges.

Reporting - All authorized LEA officers in Louisiana use a uniform "DWI Citation" with duplicate forms (five duplicates). A duplicate copy is given to each of the following organizations: Court, issuing agency, violator, Office of Motor Vehicles, and the is original maintained by the issuing agency. The DWI Sworn Report is sent to DPSC after it is completed along with the driver's license, intoxilyzer checklist and printout, uniform field sobriety test, and arrestee's rights form.

The officer gives the person a receipt for his license and forwards the driver's license, sworn report, arrestee's rights form, a copy of the DWI uniform arrest report, a copy of intoxilyzer checklist & printout, and a copy of the uniform field sobriety test to the Office of Motor Vehicles. The court copy (abstract of record) is completed and sent to the appropriate court.



II.B. Administrative Procedures

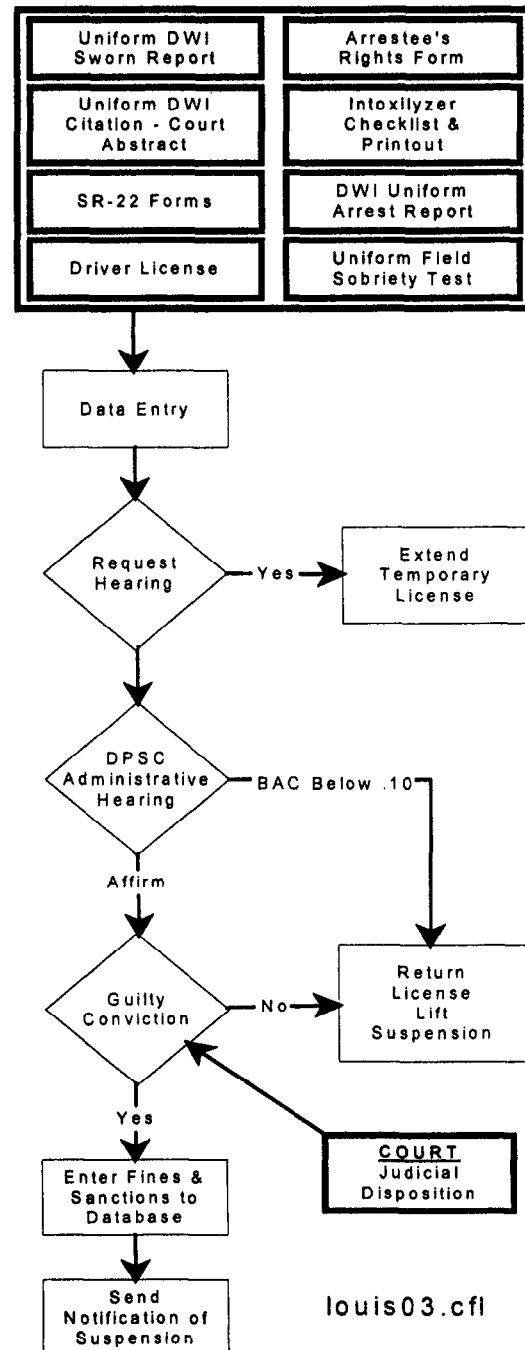
The Office of Motor Vehicles serves as the focus of information exchange regarding licensed drivers. The traffic records contain the most comprehensive collection of data regarding driver information for the use of licensing and criminal investigations. The files that relate to DUI have been reviewed in a previous section.

Data Entry - The Office of Motor Vehicles receives the following forms and documents for each DWI case:

- ▶ Uniform DWI Sworn Report of the Arresting Officer
- ▶ Uniform DWI Citation - Court Abstract of Record
- ▶ SR 22 forms
- ▶ Driver's License
- ▶ Arrestee's Rights Form
- ▶ DWI Uniform Arrest Report
- ▶ Intoxilyzer Checklist & Printout
- ▶ Uniform Field Sobriety Test

Most LEAs attempt to mail the above forms to OMV within 3 days. OMV will need the information to conduct a hearing, if one is requested during the 10-day period after the arrest. In addition, OMV uses the DWI arrest information for the LEAs to send out suspension notices to the offender. The court information is sent to OMV within thirty days of the conviction.

Request for Hearing - At the time of the arrest, the arresting officer issues a temporary driving permit good for thirty days and takes the drivers license from the offender. The offender's court appearance is scheduled and written on the uniform DWI traffic ticket along with the location of the court. The DUI offender then has the right to make a written request within ten days to the Department of Public Safety and Corrections for an administrative hearing. DPSC then issues a document extending the temporary license when a hearing is requested. The hearing is provided on average within 45 days of the arrest by an administrative law judge. If the administrative law judge affirms the order of suspension, it is final unless the arrested person files a petition for



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judicial review within thirty days from receipt of the mailed decision.

If the administrative law judge reverses the order of suspension the driver's license is reinstated. If during the administrative review the alcohol level is found to be below .10 percent by weight, the license is returned without the payment of a reinstatement fee.

Disposition - After court adjudication, if the offender is found not guilty, the suspension and associated information placed on the driver record will be removed upon receipt of the abstract from the court. Each offender must provide proof of liability insurance prior to reinstatement of their license. To verify that they have obtained the insurance, their insurance company sends a SR-22 form to OMV indicating the liability insurance is in place. OMV can then reinstate the license if the suspension period is over. The SR-22 form is generally sent to OMV by the insurance company just before the suspension period is over. Offenders obtain insurance just before the suspension period is over to avoid paying large premiums when they can not legally drive.

Reporting - The Office of Motor Vehicles receives hardcopy information from the LEAs and courts through the mail. Conviction information from the courts is generally received at OMV around 30 to 45 days after the final disposition has been determined by the court. Court actions are recorded on the citation and sent to DPSC within 30 days where information is entered into the drivers record and appropriate actions are taken. If the court dismisses or reduces the charge, the drivers license is immediately returned to the offender by DPSC.

IV.C. Judicial Procedures

In the State of Louisiana the judicial system that handles most of the DUI offenders involves the City, Municipal, and District Courts.

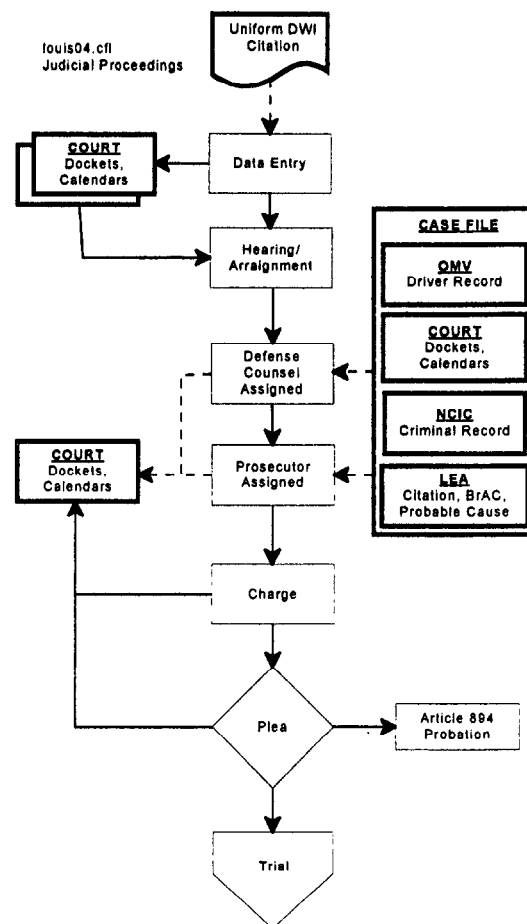
There is no organized electronic transfer of information between the various courts responsible for handling DUI offenders in Louisiana. The courts do allocate \$5.50 out of every ticket to pay for local computer administrative costs. In addition, \$2.00 out of every ticket is sent to the Office of the State Administrator of the Courts for planning and implementation of a Statewide system. It is anticipated that this office will ultimately begin organizing the electronic information exchange between Louisiana courts.

Data Entry - Each court receives the uniform DWI citation which includes the driver, vehicle, violation, temporary driver license, arresting officer, notary, court and defendant information. Once the disposition is determined by the court a fine and assessment will be imposed if the defendant is found guilty. An Abstract of Court Record for the State Licensing Authority of Conviction or the Louisiana Uniform DWI Citation/Abstract of Records Completed is prepared by the court clerk and returned to the Office of Motor Vehicles. The court information on these abstracts includes the violation (number of DWI Offense), plea, disposition, sanctions, any Article 894 action, amount of fine paid, license action, costs, and docket number.

Counsels - A file is created by the public prosecutor for all DUI cases appearing before a court. The public prosecutor can obtain the driver's record information for the Office of Motor Vehicles by completing a 101 form and submitting it to the Office.

Plea - Defense counsel may plea bargain a case, request use of the Article 894 option, etc. DWI laws and court procedures are flexible and consequently, only about half of those arrested for DWI are later convicted of DWI.

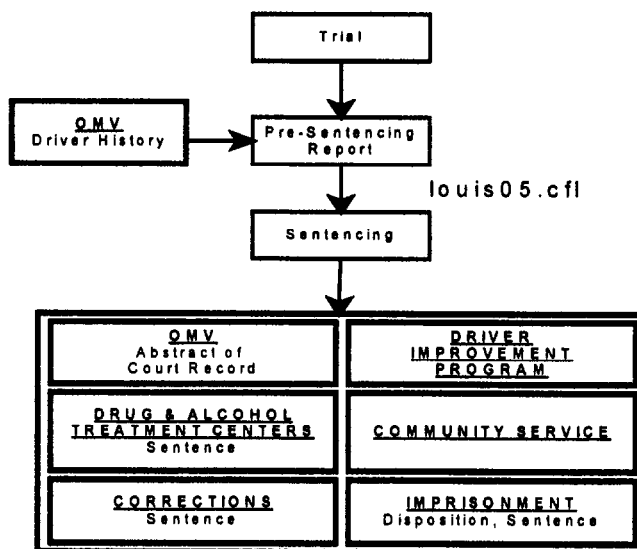
Article 894 - While the law is clear about the sanctions for first, second and multiple offenses, it allows for the use of Article 894, which applies to defendants after they have been convicted of a misdemeanor charge. The court may first place a defendant on probation from 0 to 2 years. At the end of the probation, if the court then finds that the defendant has not been convicted of any other offense while on probation, and if no other criminal charges are pending, the court may set the conviction aside and dismiss the prosecution. The



dismissal has the same effect as an acquittal except the conviction may be used for purposes of enhanced penalties if the defendant is subsequently charged as a multiple offender. In addition, the 894 is maintained on the administrative record with the arrest and prosecution of the person convicted of the misdemeanor. Consequently, the court is required to notify DPSC of cases where it is used.

Trial - Most DWI offenses are misdemeanors and are tried in City and Municipal courts. Felony judicial procedures in the state of Louisiana which are conducted in the district court are a trial *de novo*. The district court may affirm or reverse the order of driver license suspension, but the duration of the suspension is fixed by statute. DPSC or the offender may seek further review in the Court of Appeal. All Louisiana judges are elected and must have graduated from law school.

Reporting - This information is returned to the Office of Motor Vehicles within 30 days after the conviction. Some large courts are keying the information into automated systems and upload the information to the Office of Motor Vehicles. Generally, smaller courts mail hardcopies to OMV or contract with a computer service bureaus to enter the information and electronically submit it to OMV.



The Court processes DUI offenders with out-of-state licenses similarly to in-state license holders. They complete their sanctions as Louisiana drivers would and the court may notify the driver's state of the action and sanction completion. Each court reports to DPSC convictions or adjudications of drug offenses. The court prepares an order within ten days of the conviction which denies the person's driving privileges for not less than ninety days or more than one year. This along with information about DWI charges, final disposition, forfeit findings, bond forfeiture, sanctions imposed, etc. are sent to DPSC usually within 30 days of final disposition.

IV.D. Treatment Facilities

Each court selects the treatment programs and facilities which are utilized to complete the sanctions. Because of this and the fact that there is no statewide management information system for the courts, information on sanctions and sanction completion is not gathered in a central database.

I. LEGISLATIVE BASIS

The Mississippi Code specifies both judicial and administrative actions to be taken for DUI arrests and citations. Chapter 11, Sections 63-11 (The Implied Consent Law) covers driving under the influence of alcohol, drugs, or with specified unsafe blood alcohol concentration; measurement of blood or breath alcohol; sanctions and criminal punishment; penalties; suspension or revocation of license; chemical tests; temporary licenses; hearings and decisions; suspension and fees; and judicial review and penalties. The Code also establishes a BAC of 0.10% or greater as the threshold for impaired driving in the State of Mississippi. For drivers under 21 years of age the limit is also a BAC of 0.10%. In Mississippi, underage persons may consume light wine and beer in the presence of a parent or legal guardian. For Commercial Drivers a BAC level of 0.04% or greater exceeds the legal limit.

I.A. Judicial Sanctions

Summary of Judicial Sanctions for DWI in the State of Mississippi Not all sanctions are included in this table, see text for more detailed descriptions.					
Mississippi Code: §§ 63-11			Illegal Per Se: 0.10 BAC; Underage: 0.10; CVO: 0.04		
DWI CONVICTION	FINES / FEES	JAIL (Mandatory time must be consecutively served)	COMMUNITY SERVICE	TREATMENT	LICENSE SUSPENSION OR REVOCATION
1ST Misdemeanor	\$250 - \$1,000	Not more than 48 hours	--	Alcohol Safety Education Program	90 days (no more than one year)
2ND Within 10 Yrs Misdemeanor	\$600 - \$1,500	Not less than 10 days, and not more than one year	Not less than 10 days, and not more than one year.	May complete assessment and treatment successfully for early license reinstatement	Two Years
3RD OR SUBSEQUENT Within 5 Yrs Felony	\$2,000 - \$5,000	Not less than one year, and not more than five years in State Penitentiary	--	May enter alcohol and/or drug abuse program approved by Dept. of Mental Health for early license reinstatement	Five Years, plus vehicle forfeiture

► The **Implied Consent Law** specifies that a person who operates a motor vehicle upon the public highway, public roads and streets of Mississippi is deemed to have given his consent to a chemical test or test of his breath for the purposes of determining the alcoholic content of his blood. Operation of a vehicle under the influence of any substance or drug or controlled substance which impairs functioning is illegal.

► First or second time violations are **misdemeanors**. A third or subsequent offense is a **felony**.

► **Refusal** to submit to a chemical test can not be admitted into evidence in a civil action.

► As part of sentencing, the court, upon **first conviction**, shall impose a fine of not less than \$250 and not more than \$1,000 or imprisonment for not more than 48 hours or both. In addition, the court shall order the offender to attend and complete an alcohol safety education program. The county circuit court may reduce the one-year suspension period to 30 days provided the defendant demonstrates that they need their license because of hardship.

► Upon a **second conviction** within five (5) years, the court shall impose a jail sentence of not less than 10 days and not more than one year. The driver's license shall be suspended for two years and a fine of not less than \$600 nor more than \$1,500 shall be imposed. In addition, the person shall be sentenced to community service work for not less than 10 days nor more than one year.

► A person convicted of a second violation may have his/her license suspension period reduced to one year if he/she receives an in-depth **diagnostic assessment**, and as a result of such assessment is determined to be in need of treatment and then successfully completes treatment of the alcohol and/or drug abuse problem.

► A **third violation** is a felony. For the third and subsequent conviction, within five (5) years, the court can impose a fine of not less than \$2,000 nor more than \$5,000. In addition, it shall impose an imprisonment term of not less than one year nor more than 5 years in the State Penitentiary.

► For the third conviction a person may enter an **alcohol and/or drug abuse program** approved by the Department of Mental Health for treatment and if successfully completed the person shall be eligible for reinstatement of his driving privileges after a period of three years.

► Any person who operates any motor vehicle in violation of the of the DWI law and in a **negligent manner or causing the death** of another or mutilates, disfigures, etc. shall, upon conviction, be guilty of a felony and shall be committed to the custody of the State Department of Corrections for a period of time not to exceed 25 years. A fine of not more than \$10,000 can be levied. A defendant may be ordered by the court to make direct restitution to a victim.

► Mississippi has an **anti-plea bargaining statute**. Consequently, a DUI may not be reduced if the defendant had a BAC of 0.10 or more.

► The DWI law does not specifically prohibit suspending or placing persons on probation for the minimum imprisonment term. In addition, the court may suspend sentences for misdemeanor offenses. Furthermore, persons convicted of a first felony offense may be placed on probation and have their sentence suspended.

I.B. Administrative Actions

► The Department of Public Safety, Driver Services Bureau (DSB), shall for a **first conviction** and upon receipt of the court abstract suspend for 90 days the operator's license and until such person attends and successfully completes an alcohol safety education program. In no event shall such period of suspension exceed one year. At the time of arrest, the officer shall provide a 30-day driving permit in exchange for the surrender of a Mississippi license. The driver may petition the county or circuit court to reduce the time of suspension due to hardship. Such reduction for first time offenses shall not occur until 30 days have elapsed from the effective date of the suspension.

► The Department of Public Safety shall, for a **second conviction**, suspend the driver's license of such person for two (2) years. Upon the second conviction the Department of Public Safety notifies the owner of the vehicle and the spouse, if any, that if convicted of a third violation the vehicle will be forfeited to the state.

► The Department of Public Safety shall, for a **third or subsequent conviction**, suspend the driver's license of such person for five (5) years. Upon the third conviction, the Department of Public Safety may seize a vehicle owned by the person if the convicted person was driving the vehicle at the time of the offense. The Department of Public Safety can then prepare and serve a **petition of forfeiture**, identify owners, holders of liens or security interests in the affected vehicle, advertise the vehicle for sale at public auction, consummate the sale of the vehicle and place the derived revenue in a special fund created for use by the Department of Public Safety.

► The **refusal** to take a sobriety test results in a 90-day to one-year license suspension if there are no previous convictions of a violation. Suspensions are determined by the number of convictions and/or refusals in the record. Suspensions for refusals are in addition to any license sanction imposed for DWI under the implied consent law. Judicial review is not allowed for post-DWI conviction licensing actions taken by DSB for refusals.

► **Convictions in other states** of violations for driving or operating a vehicle under the influence of an intoxicating liquor are counted for the purposes of determining if a violation is first, second, third or a subsequent offense.

► Any person who drives with a canceled, suspended or revoked license will receive an additional 6 months of suspension at the end of the original cancellation, suspension or revocation.

- ▶ The Department of Licensing may suspend a person's license if they have "committed" an offense which usually requires license revocation (e.g., vehicular homicide).

- ▶ A **commercial driver** may have his license to operate a Commercial Motor Vehicle (CMV) suspended for one year if, while driving a CMV, he has a BAC/BrAC/URAC level of 0.04 or more. For the second offense the suspension is for life. A CMV operator who has any measurable amount of alcohol in his system must be placed "out-of-service" for 24 hours.

II. SYSTEM STAKEHOLDERS

Law Enforcement Agencies

Mississippi's Law Enforcement Agencies empowered to cite and to arrest DUI drivers include local, county, and state police agencies. Other agencies which are charged with the responsibility of identifying and notifying an authorized LEA for DUI offenders include Port-of-Entry, Parks and Recreation, and Campus Security Agencies. All authorized LEA officers in Mississippi use a uniform "DUI Traffic Ticket." During 1993, the Sheriffs Offices made about 15 percent of the arrests, the City Police made about 62 percent of the arrests and the Highway Patrol made 22 percent of the DUI arrests. The remaining one percent are arrests made by university campus police, state park police, and other authorities.

Department of Public Safety

The Department of Public Safety, is responsible for administering the license-related sanctions of the state's implied consent law. In addition, the Department is responsible for issuing driver licenses and maintaining driver records. Most driver licenses are issued using the individuals SSN as the unique identifier for the driver license system. The state traffic records system is designed so that driver records are the main files in which historical information on infractions, arrests, suspensions, revocations, etc. is maintained. The Mississippi DUI tracking system is a subset of this larger driver license database. The input and extraction of data and information occurs primarily by the use of hardcopy documents which are keyed into the database.

Court System

DUI citations are handled by the Justice of the Peace Courts for the County Sheriff and the Mississippi Highway Patrol. For arrests made by City police, citations are handled by the Municipal Courts. Appeals are sent to the Appellate Courts. Youth having DUI offenses are tried in Juvenile Courts.

In Mississippi the probation function is used by the court system. Juvenile judges will use probation with first time juvenile DWI offenders.

Training and Rehabilitation Facilities

The Mississippi's Driver Improvement Program for first offenders has been developed by the Department of Public Safety, Governor's Highway Safety Program and the State Board of Health. The program consists of ten hours of instruction.

For second offenses, drivers participate in a community service program. The community service program is determined locally. Many times it involves local community service which enables offenders to use their individual skills: plumbing, electrical, carpentry, etc. skills are frequently needed to complete community projects.

III. DUI TRACKING SYSTEM DESIGN & DEVELOPMENT

In 1993, a total of about 18,300 affidavits involving DUI were written by Mississippi LEAs. About 22 percent of these DUI arrests were issued to drivers with out-of-state licenses.

III.A. Description

The DWI system is part of the traffic records system which is maintained by the Mississippi Department of Public Safety, Driver Services Bureau (DSB). Other users of the system within the Department of Public Safety include the Division of Public Safety Planning. The Management Information Systems Bureau provides programming and maintenance services for the traffic records system. The traffic records system is a offender based system which tracks the driving record of every individual holding a Mississippi State driver license. The Commissioner of the Department of Public Safety is required by law to (§63-1-17) keep records of licenses and permits issued, revoked, perforated sections from trial judges, and other information deemed necessary to carry out provisions of the law. As a consequence, the official traffic records are maintained by the department and the driver histories are utilized by the courts as the official records.

III.B. Design

The present software system is designed on individual records. All elements (fields) in the database are tied to the record of an individual. The basic record information is gathered to issue drivers licenses or identification cards that are provided by the DSB. Currently, there are about two million driver records in the system.

In addition to the basic information, the driver file also contains all paid citations, department actions, suspensions, revocations, medical restrictions and suspensions, court actions including dismissals and amendments, address changes, reinstatement fees, courses taken, license surrenders, and DUI information. The DUI information file contains identification, date, number, code, amounts, etc. information regarding various DUI factors. The DUI factors include arrest, license, arresting agency, conviction information, conviction points, severity, disposition, suspension date, arraignment, fine amount, jail time, community service hours, BAC information, Drug test information, officer badge number, LEA identifiers, etc.

The traffic records system is managed by the Driver Services Bureau of the Department of Public Safety. Within the DSB there is one manager, two supervisors and 25 data entry operators. Using these personnel the DSB maintains and updates the traffic records on a daily basis. To accomplish this, the one group of entry operators key in basic information such as that provided by the BAC cards and the affidavits received from the court. The

second group of data entry operators key in update information which will keep the driving records current.

Programming services are available through Management Information Systems which is another part of the Department of Public Safety. They provided much of the technical expertise needed to convert the Utah software for utilization with the Mississippi database.

III.C. DWI Data

The Mississippi DWI tracking system is a subset of fields extracted from several files in a larger database which is updated and maintained by the Department of Public Safety. Driver records are purged regularly of information which is older than six years. Citations for DWI are generally retained in the record for 5 years. However, for multiple DWI offenders the citation record is maintained for a full six years. Mississippi uses the SSN as the unique identifier for their driver licenses.

Information needed for DWI tracking is found in the master driver license file, the Department actions file, the Citations file, the Courses file and the DWI file. The driver record for each driver with a Mississippi operating license includes 150 fields, the Department actions record has 51 fields, the citation record has 46 fields and the DWI records includes 58 fields. The input and extraction of data and information occur by both hardcopy exchange and electronic transfer. The automated link between the various courts and the DBS driver license database is not being used because of the lack of resources.

The fields contained in the DWI record are as follows:

DUI-ARREST-ID	DUI-DISMISS-CD	DUI-CIT-DEF
DUI-ARREST-DT	DUI-COURT-INFO	DUI-COMM-HAZARD-CD
CITATION-DT	DUI-ARRAIGN-DT	DUI-OFFICER-ID
DUI-ARREST-TM	DUI-FINE-AMT	DUI-ACC
DUI-LIC-NUM	DUI-FINE-AMT-SUSP	DUI-ROUT-NUM
DUI-OOS-LIC-NUM	DUI-FINE-ASSESSMENTS	DUI-CDL-REFERENCE
DUI-LIC-OOS-STATE	DUI-JAIL-DAY	DUI-CDL-LOCATOR
DUI-ARREST-AGENCY	DUI-JAIL-DAY-SUSP	DUI-VOID-TK
DUI-CONVICTION-INFO	DUI-COMM-SERV-HRS	DUI-MJIC-DT
DUI-CITATION-CONV-DT	DUI-BAC-INFO	DUI-CONVERT
DUI-CONV-ENTERED-DT	DUI-BAC	LAST-MODIFIED
DUI-CONV-AAMVA	DUI-BAC-TEST	UID
DUI-CONV-AAMVA-CDLIS	DUI-BAC-MICRO-NUM	MODIFY-DT
DUI-CONV-MICRO-NUM	DUI-BT-PENDING	MODIFY-TM
DUI-CONV-PTS	DUI-REFUSAL-CD	DUI-CRT-TYPE
DUI-SEVERITY-CD	DUI-DRUG-TEST	DUI-CDLIS-HAZ-CD
DUI-DISPOSITION	DUI-DRUG-CD	DUI-LIC-DT
DUI-FT-CD	DUI-DRUG-TEST-RSLT	DUI-AGENCY-NUM
DUI-MVR-END-DT	DUI-CHARGES	DUI-MJIC-LIC-DT
DUI-ACTION-DT	DUI-AAMVA-CD	

The Citation file contains several field. Among the fields in each record are the following which are of interest to DUI tracking:

CIT-AAMVA-CD	CIT-OOS-AAMVA	CIT-ACCIDENT-CD
CIT-VIOLATIONS	CIT-POINTS	CIT-FT-CD
CIT-MICRO-NUM	CIT-SERIOUS-VIO	CIT-VOID-CD
CIT-SEVERITY-CD	CIT-OOS-LIC	CIT-APPEAL-CD
CIT-AAMVA-CHNG	CIT-OOS-CD	

The Department action file contains several field. Among the fields in each record are the following which are of interest to DUI tracking:

DA-LIC-NUM	DA-ADMIN-HOLD-EXT	DA-FEE-PD-CD
DA-ACTN-DT	DA-CLOSED-LIC-STATUS	DA-FEE-STATION-CD
DA-REIN-DT	DA-CLOSED-COMM-STATUS	DA-ADJ-AMT
DA-CIT-NUM	DA-REINSTATEMENT-FEES	DA-ADJ-PD-DT
DA-ACTN-TYPE	DA-REIN-FF	
DA-LIC-STATUS	DA-ADMIN-FEE	
DA-CDL-ACTN-CD	DA-RET-CHK-FEE	
DA-ACTN-CD	DA-RECEIPT-NUM	
DA-AAMVA-CD	DA-SEVERITY-CD	
DA-DUI-SEVERITY	DA-FEE-PD-DT	

The Driver License Master file contains several field. Among the fields in each record are the following which are of interest to DUI tracking:

LIC-NUM	LICENSE-HISTORY	COMM-LAST-VIO-DT
SSN	HIS-CLASS-CD	COMM-OLDEST-VIO-DT
LIC-STATUS-CD	HIS-RESTRICT-CD	COMM-TOTAL-VIO
LAST-VIO-DT	COMMERCIAL-LICENSE	PREVIOUS-ADDRESS
OLDEST-VIO-DT	COMM-STATUS-CD	ETC.

There is also a Course File in which information regarding completion of the first offense sanction is captured. Offenders completing the Alcohol Education Course can have their driver's license reinstated upon completion of the course.

Other data fields that are captured in the Master Licensing file including factors such as age, sex, etc. The presence of these fields enables one to generate reports, using the Driver License System, which identify characteristics of the DUI population.

III.C.1. Standard DUI Reports

Reports from the driver license system are obtained by the use of SAS programs developed to provide summaries and extracts. The following menu lists some DUI reports available through the traffic records coordinator:

1. Arrests by County
2. Arrests by Month

- | | |
|--------------------------------------|---|
| 3. Arrests by Police Agency | 9. Arrests by Sex and Age |
| 4. Arrests with No Convictions | 10. Citation Deficiencies |
| 5. BAC Level | 11. Court Type |
| 6. Arrests and Convictions by County | 12. DWI/DUI Suspensions and Revocations |
| 7. Convictions | 13. Convictions by Court |
| 8. Fines/Fees | |

III.C.2. Driver Records

Within the Driver License System, each driver record is identified by the individual's Social Security Number. Complete driver information, including affidavits without convictions, reduction of charges, etc., are available to only Law Enforcement Agencies and the Courts. Mississippi's policy is that the records are public information. Consequently, the driver record made available to the public contains all other information except affidavits.

Driver Licenses

The Mississippi license of an arrested driver is relinquished to the arresting officer, and a 30-day temporary permit is issued to the driver. This 30-day interim allows for the court to act upon the DWI citation. In addition, the commissioner of the Department of Public Safety is notified of the arrest and gives notice to the licensee that his/her permit to drive will be suspended thirty days after the date of the notice for the length of time consistent with the number of infractions on his record. If the commissioner determines that the license should not be suspended, he can return the license or permit to the licensee.

Out-of-State and No-License Drivers

If a driver possesses an out-of-state license, the arresting officer takes the driver's license and issues a temporary driver permit for Mississippi. The driver must abide by all the requirements of the DWI citation. If within 30 days the driver fails to appear before court, the home state of the driver is notified of the citation and arrest. Subsequent identification of the driver in the State of Mississippi will result in re-arrest for the original offense, otherwise no further action is taken. Only automated records on Mississippi drivers are kept on the driver history files. Out-of-State DWI drivers, if arrested again for DWI in Mississippi, can only be identified as multiple offenders if the driver's state has recorded the previous Mississippi offense on the out-of-state driver's record. If the same Mississippi court is involved, court records may show the previous offense.

Under the South East Compact, out-of-state drivers attend first offender school in Mississippi and get their license reinstated in their home state. During this period of time they drive on a temporary Mississippi permit.

DWI Histories

If a Mississippi driver is arrested and convicted for DWI while out-of-state, the offense is entered on his/her record and counts as if it were an offense which had occurred within Mississippi.

Mississippi continues to have a number of unlicensed drivers. In 1993 the Mississippi Highway Patrol made 11,634 arrests for driving without a driver's license. This exceeded the number of arrests (8,028) in 1993 by the Mississippi Highway Patrol for driving with a suspended license. This can complicate tracking because the offender may simply give a Social Security Number which is fabricated. As a consequence, the only immediate, accurate information the arresting officer may have is the registration information associated with the automobile registration.

III.C.3. Database Access

The system is available to provide driving records to officers in the field, the courts, insurance agencies, state agencies, etc. LEAs can review the a driver record using the abstract screen which provides detailed information for the last 6 years. As indicated before, the record is considered public information and is available to anyone requesting it. The public record provides information for the last 5 years, but does not show the affidavits.

III.D. Development

During the mid 1980's all traffic records were kept on an IBM mainframe using CICS. The software had reached capacity and could no longer meet the needs of DSB by the latter 1980s. Consequently, in 1990 a decision was made to try and adapt Utah's driver licensing software which was developed using ADATABASE. In 1991 parts of the Utah software package were modified and implemented by the Mississippi Driver Services Bureau personnel to serve as the software system for Mississippi's driver license system. As part of the new package, a PC network was developed to provide for on-line updating of accident and department actions using both real-time and batch processing.

The conversion of the software to run on the CDP8 Mainframe at the service center cost the department about \$250,000 in labor and an addition \$60,000 for outside analyst assistance.

III.E. Future System Enhancements

In the future, it is hoped that all drivers including juveniles can be charged with DUI when there is an alcohol level of .08 or higher and there are injuries or fatalities involved in the accident.

Timeliness and electronic transfer of data between courts, and DBS could facilitate attaining real-time information and enhance the usefulness of the database for those involved in its utilization.

Accounting for all tickets issued and knowing the disposition of all citations would also provide a tracking system which may help provide more accurate information on the handling of DUI arrests and perhaps help ensure adequate treatment for all DUI offenders. Automated system links with CIB and Corrections would assist in achieving additional completeness and usefulness for the driver records.

IV. MISSISSIPPI'S DUI CRITICAL PATH

The Mississippi Code specifies actions that are to be taken by both the judicial and administrative branches of government. The Mississippi DUI tracking system involves several procedures from arrest to administrative resolution and adjudication to fulfillment of penalties and sentence according to the legislative sanctions described in Section I above. The following narrative and flow diagrams provide an overview of the system and options which are available under the state's Implied Consent Law.

IV.A. Arrest

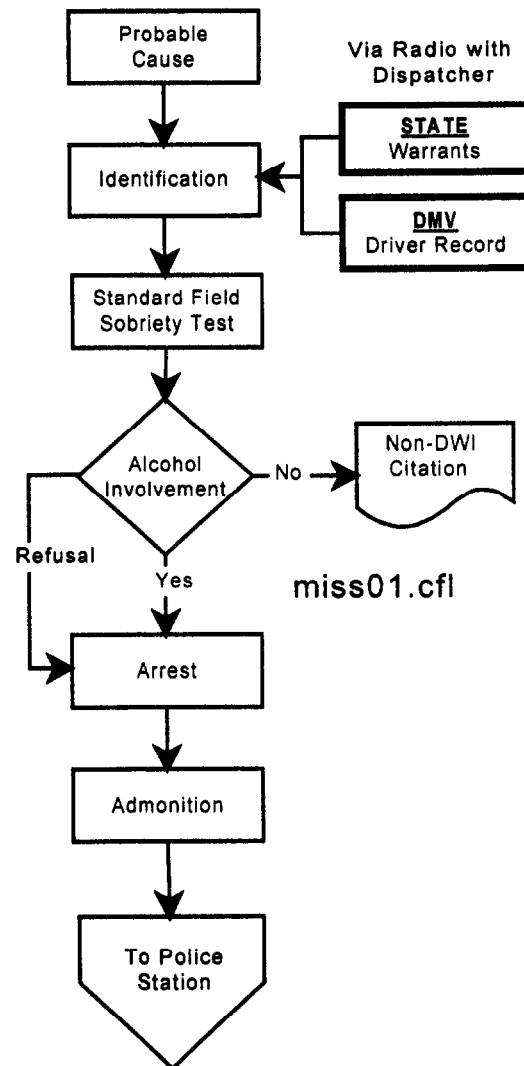
Mississippi's Law Enforcement Agencies empowered to cite and to arrest DUI drivers include local, county, and state police agencies. Other agencies which are charged with the responsibility of identifying and notifying an authorized LEA for DUI offenders include Port-of-Entry, Parks and Recreation, and Campus Security Agencies. For example, Port-of-Entry agents, employed by the State Tax Commission, can recommend the administrative suspension of a commercial driver's license if the driver is tested for a BAC of .04% or more, but if the BAC is .10% or more the agents must notify an authorized LEA officer to issue the DUI affidavit and arrest the driver for DUI.

In 1993, a total of about 18,300 affidavits involving DUI were written by Mississippi LEAs. About 22 percent of these DUI arrests were issued to drivers with out-of-state licenses.

Probable Cause - Law enforcement officers stop drivers if they suspect probable cause of a violation of New Jersey traffic laws, such as speeding, swerving, running a red light, etc.

Identification - Officers receive driver record and warrant information via radio contact with a LEA dispatcher.

Standard Field Sobriety Test/Preliminary Breath Test - The officer can give a preliminary unofficial "on-the-spot"



test to establish whether or not the breath of the driver is free from any alcoholic content before the official chemical analysis test of his breath is made. The State Crime Laboratory makes periodic tests of the machines used in making chemical analysis of a person's breath to ensure the accuracy thereof and issue a certificate to verify the accuracy of the machine.

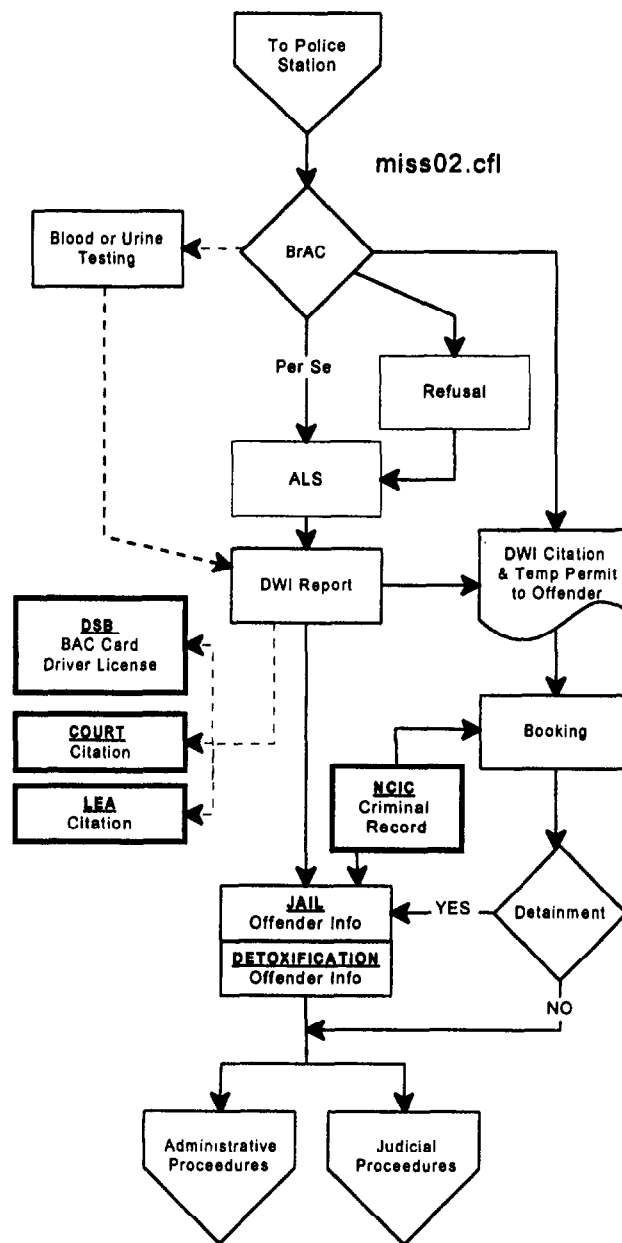
Arrest - During each arrest an "Uniform Traffic Ticket - Driving Under the Influence" is used by most LEAs. It is used to designate if the DUI offense is a first, second, or multiple offense. This determination is made by the officer from information provided by his dispatcher who has reviewed the driver's record.

Admonition - When the officer has reasonable grounds and probable cause he informs the offender that failure to submit to chemical tests or tests of his breath shall result in the suspension of driving privileges for 90 days. The Mississippi courts advise defendants' of their right to representation by an attorney when the offenders first appear before the court.

Chemical Analysis - Offenders are taken to the police station to be tested for alcohol concentration. The chemical analysis of the person's breath, blood, or urine must be conducted according to methods approved by the State Crime Laboratory. To accomplish this, the State Crime Laboratory provides training and issues permits to law enforcement officials to ensure that satisfactory techniques and methods are utilized by competent and qualified individuals.

Refusal - If a person refuses, upon the request of a law enforcement officer, to submit to a chemical test of his breath the law enforcement officer informs the person that he is subject to arrest and punishment consistent with the penalties prescribed for persons submitting to the test.

ALR - The 90-day suspension for refusal is in addition to the appropriate suspension for the offense. Upon administrative license revocation, the arresting officer gives the person a receipt for his license and forwards the driver's license and sworn report to the commissioner



of public safety. When confronted with a refusal an officer must have a good field sobriety test and probable cause for the arrest to be sustained in court. If the court finds the defendant not guilty, the Department of Public Safety returns his/her drivers license.

DUI Traffic Ticket - All authorized LEA officers in Mississippi use a uniform "DUI Traffic Ticket" with duplicate form (four duplicates). A duplicate copy is given to each of the following organizations: Commissioner of Public Safety, the issuing officer, the appropriate court, and a section (affidavit) which is sent with the license to the Department of Public Safety, Driver Services Bureau. The tickets are sent to the DBS weekly, however, for DWI arrests, a BAC or Refusal Card are sent to DBS from the LEA within 24 hours of the arrest. LEA information on DUI offenders is not sent to the state Bureau of Criminal Investigation.

BAC/Refusal Card - The next day, after the arrest, the BAC card is sent by the police jurisdiction to the Mississippi State Driver Services and Driver Improvement Bureau where the information is entered into the driver license database. This causes an administrative hold to be placed on the license until further information is obtained. Information on the card includes agency, ticket number, location, day, date, time of arrest, time of test, name, address, driver license number, court, vehicle information, BAC, etc.

Booking - Once the BAC test is administered and found conclusive, the offender is booked. Offenders arrested can elect to deposit their license in lieu of any other security, a two hundred dollar (or less) cash bail or a bail bond to guarantee their appearance in court. Any person arrested for DWI is informed that he or she has the right to use the telephone for the purpose of requesting legal or medical assistance immediately after being booked. He can at his own expense have a BAC test administered by an independent laboratory.

Detainment - Commercial drivers with a BAC greater than 0.00 can be detained and placed "out of service" for 24 hours. The many police jurisdictions throughout Mississippi have no standard method of utilizing detainment for regular drivers arrested for DWI.

Reporting - The Uniform Traffic Ticket consists of 4 parts, one each which are routed to the Commissioner of Public Safety, the issuing officer, the appropriate court, and a section (affidavit) which is sent with the license to the Department of Public Safety. Some law enforcement departments do not report on affidavit forms, but rather on citation (or court abstracts) forms only. As a consequence, in Mississippi 13.8 percent of the DUI citations for 1993 were entered into the driver's record without affidavits. The affidavits contain BAC information, and if not used, this information is not gathered.

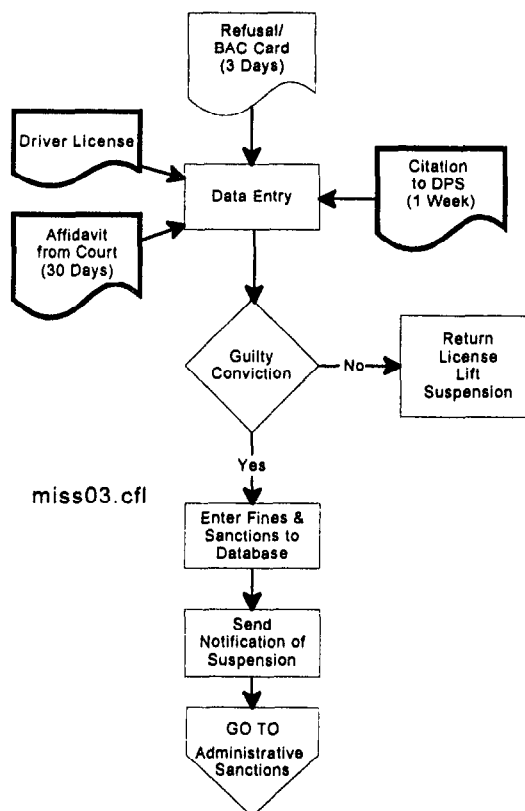
IV.B. Administrative Procedures

The Drivers Services Bureau (DSB) serves as the focus of information exchange regarding licensed drivers. The DSB records contain the most comprehensive collection of data regarding driver information for the use of licensing and criminal investigations. The files that relate to DUI have been reviewed in a previous section.

DSB receives hardcopy information from the LEAs and courts through the mail. As shown in the chart the first information DSB receives is the Refusal or BAC card with the driver's license stapled to the card. It is received within 3 days of the arrest and a notice of suspension is immediately sent to the offender. The court updates this information by completing the affidavit it receives or completing an abstract and sending it to DSB once the fine and assessment are paid. DSB will not reinstate a license until the maximum penalty time has passed or the offender completes the Alcohol education or treatment courses and other sanctions levied by the court. Information flows from the treatment facilities to DSB which enters the information in the driver record. Once sanction are complete the court can request DSB to reinstate the license of the offender. If the offender is found not guilty, the suspension and associated information placed on the driver record will be removed upon receipt of the abstract from the court.

Each offender must provide proof of liability insurance prior to reinstatement of their license. They must obtain the insurance for three years. When this is done, the insurance company send a pink SR-22 form to DSB indicating the liability insurance is in place. DSB then can reinstates the license.

At the time of the arrest, the arresting officer issues a temporary driving permit good for thirty days and takes the drivers license from the offender. The offender's court appearance is scheduled and written on the uniform DWI traffic ticket along with the location of the court. The DUI offender then has the right to make a written request directed to the trial judge requesting that a trial be held on the matter within a thirty-day period. If



the defendant is not afforded a trial within such a period, the Commissioner of DPS issues the defendant a new ninety-day driving permit.

As indicated in the chart court actions are recorded on the affidavit and sent to DPS where information is entered into the driver's record and appropriate actions are taken. If the court dismisses or reduces the charge, the drivers license is immediately returned to the offender by DPS.

Juvenile court action are not recorded on the driving record because the juvenile courts do not report to DPS. The judge may simply take the juvenile's driver license and return it upon completion of the sanction. This makes DPS driver records incomplete and means that the juvenile may receive the same sanctions again if tried in another court for a repeat offense.

IV.C. Judicial Procedures

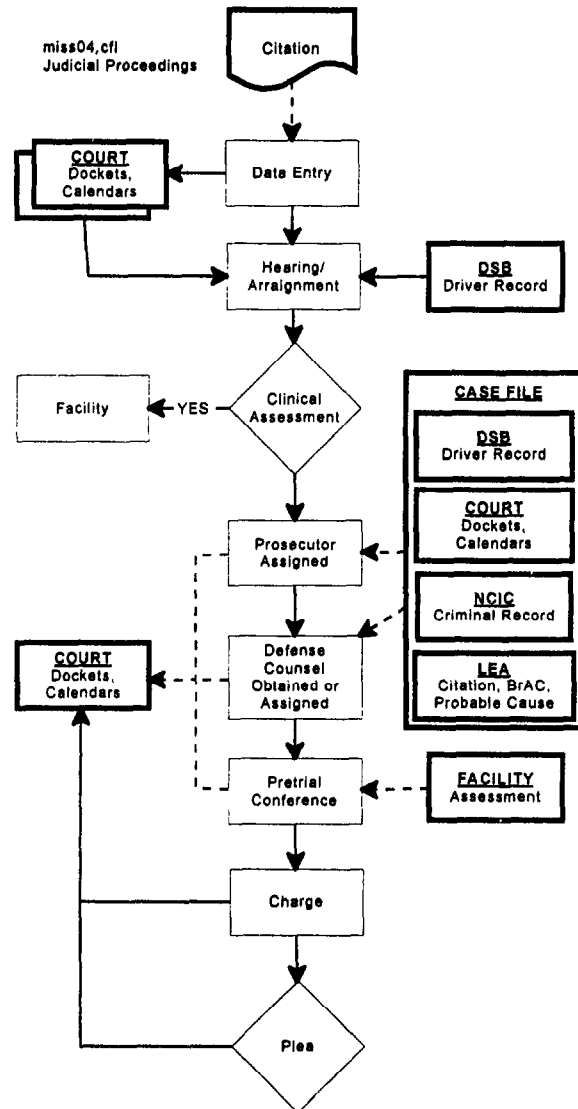
Judicial procedures in the state of Mississippi operate under the watchful eye of the Mississippi Judicial Performance Commission. The Commission monitors court actions and decisions. It can and has removed judges, including elected judges, from the bench for inappropriate judicial conduct and behavior. In the past judges have been removed and jailed for instances involving payoffs.

The judicial system in Mississippi which handles most of the DUI offenders involves the Justice, Municipal and County courts. Justice court judges are elected and not law trained. Judges for the Municipal and County courts are appointed and law trained.

The general court procedure is illustrated in the accompanying chart. Each court may use somewhat different procedures, but in general, as shown in the chart, the citation is received by the court and the court date has been prearranged by the officer and court clerk and recorded on the citation so the offender knows when and where to appear. For many first or second misdemeanor DWI offenses a plea of guilty will be entered without the assistance of counsel.

For First time offenders the court will sentence them to the Mississippi Alcohol Safety Education Program which is operated by Mississippi State University. The course includes a process which can assist in the diagnosis of existing alcohol problems. If an alcohol problem is indicated, the offender is provided with a directory of resources where help can be obtained. In addition, a general alcohol education course is provided which must be completed to obtain early reinstatement of the drivers license after the 90 day suspension.

The second time offender is sentenced to participate in a treatment program conducted by the Mississippi Department of Mental Health or a licensed facility

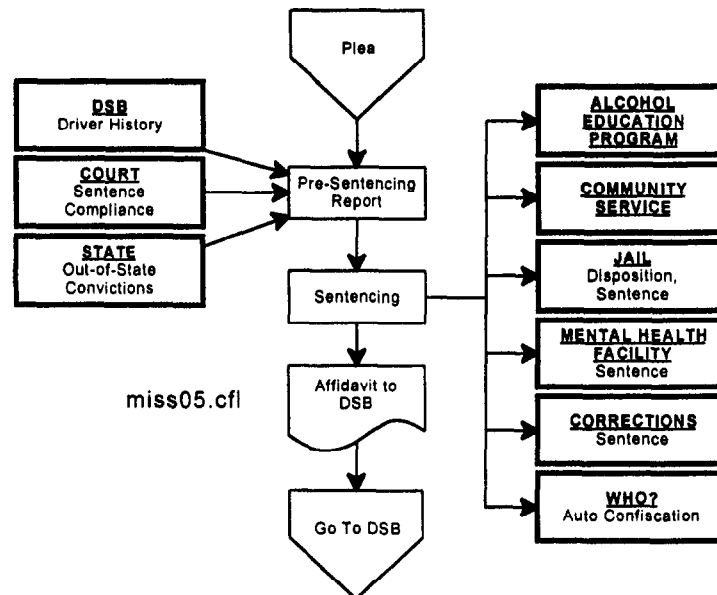


which can provide the needed treatment. Both in-patient and out-patient services are provided. If the treatment is not completed, the court will consider it a contempt offense.

While the law is clear about the sanctions for first, second and multiple offenses, some Mississippi courts have developed a practice of handing down decisions giving drivers a second or third, first offense. This practice causes the offender to receive what can be considered reduced sanctions. The implementation of this practice, implies that the courts may considering the penalties for multiple offenses too harsh.

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As shown in the accompanying chart, once a plea has been entered the court will consider the driver's history and previous offenses and sanction when determining the disposition and sentence. The sentence is prescribed by the law and will include sanctions illustrated in the chart.



In the State of Mississippi the judicial system which handles most of the DUI offenders involves the Justice, Municipal, and Juvenile Courts. In general most of the municipalities have their own court. There are 82 Justice Courts, __ Juvenile Courts and __Appellate Courts.

Reporting - There is no organized electronic transfer of information between the various courts responsible for handling DUI offenders in Mississippi. Within the last two years the Mississippi Legislature has formed an Office of the Administrator of the Courts. It is anticipated that this office will ultimately begin organizing the electronic information exchange between Mississippi courts.

Each court receives the DUI affidavit which includes the name, address, offense, date of appearance, etc. for the offender. These are usually sent to the court once a week and each court generally prosecutes DUI offenders one day a week. Once the disposition is determined by the court a fine and assessment will be imposed if the defendant is found guilty. When this fine and assessment are paid, the affidavit is completed by the court clerk and returned to the Driver Services Bureau where court information is entered into the driver's record. The court information can include number of offense, disposition, fine, assessment, arraignment date, court identifier, date fine and assessment paid, case number,

etc. This information is used to update the driver's record which contains the information already entered from the BAC or Refusal card.

Counsels

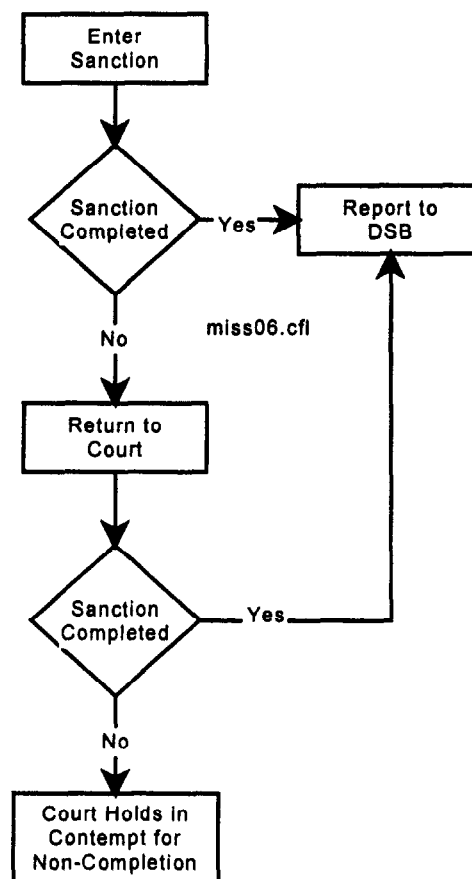
A file is created by the public prosecutor for all DUI cases appearing before a court of the state. The public prosecutor can obtain information for the Driver Services Bureau including the BAC or Refusal Card, Ticket and proof of mailing of the suspension notice. The Bureau keeps all this information on record using microfiche.

The courts may order DUI defendants to be placed on probation. In Mississippi the probation officers are public employees employed by the Department of Corrections. These officers provide defendant assessments and make recommendations for judicial action. Reports of successful compliance are filed with the clerks of the court so that dockets can be updated. Non-compliance will initiate procedures to issue warrants for offenders.

The Court processes DUI offenders with out-of-state licenses similarly to in-state license holders. They complete their sanctions as Mississippi drivers would and the court may notify the driver's state of the action and sanction completion.

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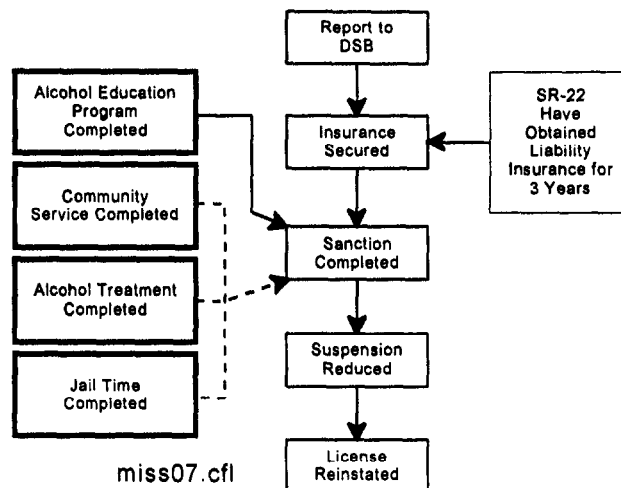
As shown at the bottom of the accompanying chart, the court will hold the offended in contempt if he does not complete his sanctions. Once the sanctions are completed, the completion is reported to DSB so that appropriate licensing action can be taken.



IV.D. Treatment Facilities

All first time offenders are required to attend a basic Alcohol Educational Program (MASEP) which is administrated and provided by Mississippi State University. Upon completion on the course, the University reports back to DSB those who have completed the course. This is accomplished by using a monthly tape prepared by MASEP and used by DSB to update its course file.

For multiple offenders the attendance of the Mental Health certified program is voluntary. For those who attend and complete treatment, the Department of Mental Health sends a certificate of completion to DSB. DSB can then update the drivers record and reduce the suspension time accordingly.



I.A. Judicial Sanctions

Summary of Judicial Sanctions for DWI in the State of New Jersey Not all sanctions are included in this table, see text for more detailed descriptions.					
New Jersey S. A.: §§ 39:4-50, 39:4-50.2, 39:4-50.4			Illegal Per Se: .10 BAC; Underage .01 BAC; CVO .04 BAC		
DWI CONVICTION	FINES / FEES	JAIL (Mandatory time must be consecutively served)	COMMUNITY SERVICE	EDUCATION AND/ OR TREATMENT	LICENSE SUSPENSION OR REVOCATION
1ST	\$250 - \$400	Mandatory 12-48 hrs, plus discretionary jail no more than 30 days	--	DWI Education; Mandatory 12 - 48 hrs Treatment	6 months to one year
2ND WITHIN 10 YRS	\$500 - \$1,000	48 hrs - 90 days	30 days	DWI Education; Jail term may be served in IDRC	2 years, must reapply
3RD OR SUBSEQUENT WITHIN 10 YRS OF PREVIOUS	\$1,000	Not less than 180 days	Not more than 90 days of jail may be substituted for comm. service	DWI Education; Jail term may be served in inpatient facility (but not in an IDRC)	10 years, must reapply
IDRC: Intoxicated Driver Resource Center					

► **First violation** is subject to a fine of not less than \$250 nor more than \$400 and a period of detainment upon conviction of not less than 12 hours nor more than 48 hours spent during two consecutive days of not less than six hours each day and served as prescribed by the program requirements of the Intoxicated Driver Resource Center, and in the discretion of the court, a term of imprisonment of not more than 30 days.

► First violation is also cause for loss of driving privilege in New Jersey for a period of not less than six months nor more than one year.

► **Second violation** is subject to a fine of not less than \$500 nor more than \$1,000, community service for a period of 30 days, and imprisonment for a term of not less than 48 consecutive hours nor more than 90 days.

► Second violation is also cause for loss of driving privileges in New Jersey for a period of two years upon conviction. Afterwards, application for a driver license may be granted at the discretion of the Director of Motor Vehicles.

► **Third or subsequent violation** is subject to a fine of \$1,000 and imprisonment for a term of not less than 180 days (90 days of which may be substituted for community service).

- ▶ Third or subsequent violation results in a loss of driving privileges in New Jersey for 10 years.
- ▶ A **refusal** to submit to a chemical test for alcohol concentration will result in a fine of \$250 to \$500, and a mandatory six-month license revocation for the first refusal and mandatory two-year revocation for the second or subsequent refusals.
- ▶ An “**involuntary**” blood (not breath) sample may be obtained from a person who has been arrested for a DWI offense, including drivers involved in accidents fatal to others.
- ▶ For any violation that occurs during the period of license suspension or revocation for a previous violation, the suspension or revocation for the subsequent violation will commence immediately following the termination of the existing sanctions.
- ▶ Offenders must satisfy the screening, evaluation, referral, program and fee requirements of the Division of Alcoholism's Intoxicated Driving Programs Unit and of the Intoxicated Driver Resource Centers and a program of alcohol education and highway safety as prescribed by the director of the Division of Motor Vehicles. Failure to satisfy the requirements results in a mandatory two-day imprisonment and license revocation or suspension until such requirements are satisfied (unless stayed by court).
- ▶ Courts imposing imprisonment may sentence offenders to county jail, workhouse of the county in which offense was committed, inpatient rehabilitation program, or Intoxicated Driver Resource Center² (or other facility approved by the Department of Health).
- ▶ A second violation that occurs after 10 years of the first will be treated as a first violation for sentencing purposes.
- ▶ A third violation that occurs after 10 years of the second will be treated as a second violation for sentencing purposes.
- ▶ Upon conviction, the court shall immediately collect the New Jersey driver license of the offender. The court forwards the license to the Division of Motor Vehicles.
- ▶ Offenders must pay **restitution** to a victim who is also eligible to receive payment from the state's Violent Crimes Compensation Board.

²IDRC not available for third or subsequent offenders.

► In addition to other fines and fees, offenders must pay the following **court cost assessments and surcharges**:

-	ATS Fund	\$2
-	Emergency Medical Technicians Training Fund (EMTTF)	\$0.50
-	Alcohol, Education, Rehabilitation, and Enforcement Fund that supports the Intoxicated Driving Programs Unit	\$80 + <i>per diem</i> ³
-	DWI Surcharge (paid to DMV)	\$100
-	Violent Crimes Compensation Board	\$50
-	Insurance surcharge for first and second time offenders ⁴	\$1,000 per year
	~ for third offenders (within 3 years)	\$1,500 per year

³*Per diem* is \$50 for the first offense, \$75 for the second offense.

⁴Surcharge is imposed each year for three years for each violation. N.J. Insurance Commissioner has the statutory authority to increase these surcharges.

I.B. Administrative Action

The state of New Jersey does not have administrative *per se* or administrative license revocation (ALR) for DWI arrests. Judicial court procedures are required to be enacted swiftly enough to negate the need for ALR. Initial hearings are usually held three (3) days from date of arrest, and currently, the average time from arrest to disposition in the New Jersey courts has been lowered to less than 90 days with immediate goals to further reduce the average time to disposition to 60 days.

Upon conviction, the court takes possession of the offender's driver license and relinquishes it to the Division of Motor Vehicles (DMV). The DMV only administers the license actions and updates its status as imposed by the courts. DMV is responsible for no adjudication functions other than administrative review of the accuracy of driver history information.

- ▶ For an "alleged" DWI-related injury or death (as well as for other serious driving offenses), the licensing agency may issue a preliminary suspension *without* a hearing. The driver has a right to hearing prior to final actions being taken.

- ▶ By New Jersey court rule, upon failure to appear (FTA) in court a warrant for arrest is posted, then after 31 days, the defendant's license is revoked.

- ▶ Record of violations by non-New Jersey-licensed drivers are maintained in the DMV database. If such drivers later apply for a New Jersey license, these prior violations are matched to the applicants and become part of their NJ driver histories.

- ▶ New Jersey is a member of the Interstate Driver License Compact (DLC) and the Nonresident Violator Compact (NVC) administered by the American Association of Motor Vehicle Administrators (AAMVA).

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II. SYSTEM STAKEHOLDERS

Law Enforcement Agencies (LEAs)

All state, county, or regional agencies having law enforcement responsibilities use an Uniform Traffic Ticket to issue citations for all traffic-related offenses, including DWI. The state police issue over 20% of all DWI citations in the state. Almost all the rest of the DWI arrests are made by the municipal police agencies, as well as, the county and sheriffs departments. Marine police, park police, and port authorities also can arrest drivers for DWI. Officers are supported by dispatchers who have access to information via computer terminals connected to both DMV and AOC databases.

In the state of New Jersey, the *Attorney General* is the statutory Chief Law Enforcement Officer who oversees all state police organizations and county prosecutors. The Attorney General and Chief Justice (through the Administrative Director of the Courts) have worked closely together to facilitate the success of the state-wide information and communication programs in New Jersey. The Division of Highway Traffic Safety of the State Police is charged with overseeing the distribution of grants for all state and local DWI programs, such as sobriety check points, along with efforts to monitor and audit the programs. They also conduct research related to DWI and educational programs for the general public and state organizations that enforce DWI laws. The Division distributes approximately \$4 to \$5 million in monies received from federal funds, the drunk driver enforcement fund, and other user fees.

Law and Public Safety, Division of Motor Vehicles (DMV)

The Department of Motor Vehicles is responsible for the administration of licenses and driver histories for New Jersey drivers. Individual driver histories are kept containing comprehensive data regarding personal, vehicle, insurance, and driving information. Certified, hardcopy DMV records are the only driver histories used as evidentiary information. Legislation is currently in review to allow online DMV data (with electronic certification) to be admissible as evidentiary information.

DMV does not receive notification of arrests for DWI. DMV only receives conviction reports from the courts along with confiscated driver licenses. DMV delivers all notices of licensing actions and provides access to LEA to the most up-to-date license status of each New Jersey licensed driver.

Judicial Systems: Courts, Counsel, and Probation Agencies

In the state of New Jersey, the Chief Justice, through the Administrative Director of the Courts, has overall jurisdiction over the state's courts, thus ensuring state-wide uniformity in procedures and regulations among the supreme, appellate, and municipal courts. There are 538 municipal courts in the state of New Jersey that all operate under the same procedures. Ninety-nine percent of DWI cases are processed by the municipal courts. DWI cases are not heard in any other court unless a more serious crime was committed in conjunction with the DWI violation. These cases are heard in the Superior Courts.

Traffic complaints (including DWIS) are written on Uniform Traffic Tickets that are received directly by the courts from LEAs. As of this date, 78% of all complaints are entered into the Automated Traffic System (ATS) operated by the Administrative Office of the Courts (AOC) Municipal Court Services Division. By January 1, 1997, all the courts in New Jersey are required by statute to transfer and access data with the AOC mainframe online, either with direction communication lines or via a third party interface. ATS is the central repository of data for case records for all traffic and criminal violations regardless of disposition. ATS also tracks disposition and compliance with sanctions. Weekly electronic reports to DMV allow driver histories to be updated with convictions for DWI violations.

Education, Treatment, and Rehabilitation Facilities

All DWI convictions in New Jersey carry a two-day sentence at the Intoxicated Driver Rehabilitation Center (IDRC). IDRC is operated by the Bureau of Alcohol Countermeasures, Intoxicated Driving Programs Unit of the Department of Health.

Other

Federal offices, such as the Immigration and Naturalization Services (INS), Federal Bureau of Investigation (FBI), and the Secret Service, have access to New Jersey data via NCIC communication lines. Conviction reports are submitted to NCIC by DMV and state police.

The state of New Jersey has plans to establish dial-in access to its database of records. Clients, such as private attorneys, interest groups, and private citizens, will have limited access to civil records.

III. DWI TRACKING SYSTEM DESIGN & DEVELOPMENT

Data compiled from 1993 ATS data show that 40,617 DWI citations were issued in 21 municipalities. During that year, the courts were able to dispose 42,164 cases and approximately 83% of all drivers arrested for DWI were convicted of or plead guilty to the offense. Over 58% of offenders plea guilty, and of those who went to trial, 53% were found guilty of DWI. The state of New Jersey, by mandate of the Chief Justice, prohibits plea bargaining for DWI violations. In 1993, approximately 13% of DWI violations were committed by out-of-state licensed drivers.

III.A. Description

In the state of New Jersey, DWI data is maintained by the Administrative Office of the Courts (AOC), Municipal Court Services Division. Approximately 78% of all DWI data are contained in the state-wide traffic citation tracking system, known as the Automated Traffic System (ATS). Summary data on all DWI cases, as well as ATS data, are stored on the judiciary mainframe. ATS is a incident-based system that tracks all traffic violations (including DWIs) case by case. Its design enables it to track each incident as a separate record; the system is not intended to match these separate cases to compile offender records.

The Division of Motor Vehicles administrates the DMV Driver History Information database that contains the official driver history of all New Jersey licensed drivers. Although complete records of every traffic citation are contained in ATS, it cannot be used to provide official driver histories or histories of traffic violations for specific individuals. The courts notify DMV of only traffic violation convictions. DMV database systems compile and update these events in driver records.

III.B. Design

There are five data centers in the state operated by various state agencies in New Jersey. ATS and summary DWI data are housed at the Judiciary Data Center. The judiciary mainframe is an Amdahl 3091 mainframe that runs various databases for multiple organizations in addition to the courts, such as for the county prosecutors and county jails.. The courts are networked on a state-wide communications backbone operated by the Office of Telecommunications and Information Services (OTIS). The OTIS backbone networks the state's five data centers. This network enables other state agencies to access or to exchange data with the AOC. Furthermore, each of the data centers exchanges backup tapes of its mainframe data with another data center on a regular basis. ATS backup data tapes are kept at the Department of Treasury Data Center.

All ATS courts have access to central AOC databases, electronic mail, and statewide traffic and criminal warrant inquiry system, and are provided with DMV inquiry capabilities. In addition, the Automated Complaint System (ACS), a parallel complaint tracking system is used by the courts to track non-traffic complaints. To date, 274 courts are on ACS processing nearly 60% of the disorderly persons (DP), petty disorderly persons (PDP), local ordinance, and criminal violations⁵ caseload volume throughout the state. The statewide warrant inquiry system is available to all ATS/ACS courts and their respective police departments. All courts will have both ATS and ACS online by the end of 1996. A \$2.00 ATS court assessment is collected from all offenders to fund the operations of the ATS/ACS system.

III.C. DWI Data

ATS tracks all data related to every Uniform Traffic Ticket submitted to courts that are online with ATS. The court is the only agency that receives notification of traffic citations. Each ticket is entered by court data entry staff and filed with a unique identification. ATS records all citation and arrest data, including DWI-related data, such as BAC, license status, violation, etc.; as well as all adjudication information, such as court hearing time and date, counsel, pleas, charges, disposition, sentence, etc. Complete case files are kept for each traffic citation issued. The courts conduct weekly downloads to DMV of all cases disposed. The convictions are matched to driver records to build a driver's DWI history. DWI incident and case data are maintained completely by ATS, but official DWI histories may only be obtained from the DMV driver history information database.

III.C.1. ATS Reports

The ATS database design allows administrators to generate reports on DWI-related events. The reports include aggregate and specific detail for management, performance, trend, and statistical analysis. ATS database design enables administrators to view data in numerous configurations. Reports that tabulate specific totals during certain time periods can be used for performance measurements. Other reports can be used for evaluations, inventories, schedules, and other management activities. Reports can be used to search for event data by county, by court, or statewide.

In addition to statistical and trend data that is regularly generated, management and performance reports are available online to all ATS courts. This function of ATS has allowed New Jersey courts to monitor court performance, case adjudication patterns, and court backlogs. The ability to actively monitor and evaluate court activities has enabled New Jersey courts to become proactive in regards to backlog reduction, timely disposition, fee collection, and record keeping. For example, manual record keeping systems often allowed

⁵DP and PDP offenses are usually "misdemeanor" type offenses, whereas, "crimes" are usually equivalent to "felonies."

delinquent payment of fines and fees to generally go ignored. ATS monitors actual payments and times and automatically generates "dunning letters," or letters notifying drivers of payments past due, if payments are not received on time.

The Report Management and Distribution System (RMDS) is a module of ATS that allows ATS courts to view almost all available reports before printing them (some reports can only be obtained by request to ATS staff). They are compiled on a daily, weekly, or monthly basis and are retained for a set period or permanently depending on requirements. Other "On Request" or "Online Request" reports can be generated on demand. ATS can be used to access the reports such as the ones listed below:

Daily Reports

Daily Ticket Error Report
Officer Autopic Error Report
Suspense Report

In-Court Payment/Disposition Report
Applied Batch Report

Weekly

Officers Schedules Court Appearances
Moving Eligible for Warrant
Parking Eligible for Warrant
Tickets Eligible for FTA
Drivers' Licenses Surrendered in Court

Ticket Delete Report
Delinquent Time Payment Notices
Tickets Closed Report
Weekly Outstanding DWI Report
Driving on Revoke List

Monthly Reports

Ticket Activity Report
Tickets Void or Spoiled
Tickets Not Assigned by Court
Tickets Assigned Not Issued
Cases Eligible for Dismissal
Dismissed Due to Lack of Prosecution
AOC Statistical Report
Cases on Appeal
Case Status Report

Check Register
Over/Under Payment Record
DWI Outstanding Report
DWI Disposed Report
DWI Issued Report
Police Disposition Report
Warrants Issued
Also Available: Monthly Financial Reports

On Line Reports

Daily Traffic Journal
Daily Criminal Journal
Daily Bail Journal

On Request

Police Department Codes and Addresses
Police Officer List
Violation List
Listing of Tickets in ATS

Time Payment Detail Report
Time Payment Summary
ATS Court Calendar/Summary
FTA Notices

Special Reports

Other reports can be generated for unique parameters upon request to ATS staff. Examples include:

DWI Statistics (Status) by County/Municipality
Time to Disposition (DWI)
Case Flow Summary (DWI)
ATS Courts with Largest Number of DWI Cases Over 60 Days Old
Courts with Largest DWI Backlogs
Municipal Court Termination Report by Charge (DWI)

III.C.2. Driver Records

DMV receives weekly downloads from ATS courts (and manual reports from non-ATS courts which are then entered into the DMV system) of all convictions for traffic violations. Using unique identifiers to match driver files, these convictions update individual driver histories. New Jersey uses a special algorithm to create a unique driver license number for each licensee that is used to track individual driver information.

DMV is the only agency that can provide official driver histories that include DWI records, penalty points, and license status, for example. Counsel must request certified records from DMV to be used in court trials. Certified DMV records are also used by the judges when determining sentence for convicted DWI offenders.

Driver Licenses

The New Jersey driver license has two distinguishing characteristics: (1) the license number is a calculated biographical code of a driver's last name and physical attributes instead of a sequential number or social security number, and (2) it does not require the use of a portrait photograph of the driver on the license (except for first-time licensees and drivers under 21) enabling approximately 60% of New Jersey's 5.5 million licensed drivers to renew their licenses (required every four years) by mail.

The need for a photograph is mitigated by the use of a meaningful license number. The license number is an unique algorithm that codes the driver's identity, somewhat similar to the Soundex system. For example, the New Jersey license number "S5778-40771-01024" can be broken down thus:

- S - first initial of last name (*i.e.*, "S"mith)
- 5778 - coded next four letters of last name (*i.e.*, "mith")
- 407 - coded first name (*John*)
- 71 - coded middle initial (*J.*)
- 01 - coded birth month for males (*January*), or 51 if female
- 02 - year of birth (*1902*)
- 4 - coded eye color (*blue*)

An important advantage of New Jersey's license number is its capability to provide reliable identity verification. For example, during a stop the officer can obtain an analysis of the

license number algorithm from the dispatcher and check in existing records for matching physical attributes to the name provided. False driver licenses are easier to identify, and drivers attempting to obtain additional licenses after loss of one license are hindered because DMV is able to make comparisons of similar algorithms to search for potential true identities.

The algorithm is also an especially effective driver record data management tool. As described above, repeat violations can be identified to likely offenders by a consistent algorithmic tool rather than with variable, offender-reported information. Another advantage is the capability to use the algorithm to calculate a "fake" New Jersey license number for out-of-state licensed offenders to be used to manage traffic violation data. For example, whereas the courts organize incident (case) data for out-of-state licensed drivers by case number and the home state license number, the DMV assigns a "fake" NJ license number to each offender. The false number is calculated using the same algorithm. By doing this the DMV is able to identify repeat offenders regardless of the license used, and if a driver applies for a New Jersey license, any prior convictions in the state (as retained in the DMV database) becomes part of the licensee's NJ driver history.

DWI Histories

DMV is the record keeper for complete driver histories that contain only convictions for DWI violations, whereas the court records include all DWI related information including all arrests (regardless of disposition), charges, disposition, sentences, and compliance. Although the ATS (court) system contains the most detailed and comprehensive data for each citation issued in New Jersey, it is a incident-based system, not a defendant-based system. The ATS system is capable of searching for all citations (incidents) using specified parameters (including identities), but an output generated on ATS cannot be used as a "guaranteed" history for a driver. Official, certified records provided by the DMV are required for all court procedures including charging and sentencing. Currently, only certified hard copies of driver history is accepted by the court, but legislation is forthcoming that will allow online, electronically certified DMV data to be used in court.

Officers on the road rely on DMV data for accurate driver license status information and use the ATS system to receive existing warrant information. Both DMV and ATS database are directly accessible by the dispatcher via the OTIS network.

III.C.3. Database Access

All ATS courts have direct inquiry access to AOC data, that includes violation data, case dockets, warrant system, etc. The ATS is also accessible via statewide communication lines by LEAs and DMV. The state provides all basic computing and communications hardware and software for local courts to establish connectivity to the mainframe. Subsection "Computerization of Municipal Courts" in section III.D., "Development," of this report provides

more detail on the development and implementation of New Jersey's statewide court computer system.

The four Regional Service Centers of DMV, as well as, the 48 Motor Vehicle Agencies located throughout the state are connected to the judiciary mainframe. The Regional Service Centers are DMV field offices, and they have full access to search the DMV database and can access court data in ATS when necessary to resolve administrative issues regarding license status. On the other hand, the Motor Vehicle Agencies are not necessarily state-operated; however, they use DMV computers to download driver data and license status to reissue "no fee duplicate" licenses. They cannot resolve any administrative issues regarding license status.

III.D. Development

Guided by the extensive recommendations of the "1985 Supreme Court Task Force on the Improvement of Municipal Courts," specifically its position on the "Computerization and the Administrative Office of the Courts," to address the "centralization of information within the court system and ... [an] effective electronic mechanism for the exchange of information between the Municipal Courts and either the Administrative Office of the Courts of the Division of Motor Vehicles."⁶ Since receipt of the Task Force recommendations, the AOC has progressively worked toward developing a comprehensive statewide information system that has resulted in the successful implementation of ATS.

The courts are responsible directly to the judiciary, and the AOC acts as the single point of contact for all courts of the state. Thus, the point of information exchange between the courts and other stakeholders is streamlined, for example DMV need only interact with one agency (AOC) of similar "stature" rather than maintain contact with hundreds of separate courts. Other benefits, as predicted by the 1985 Task Force, include the use of uniform procedures, judiciary control over management and administration, interagency decisions handled at the proper level and instituted statewide, consolidation of records statewide, and even application of justice.

Task Force on the Improvement of Municipal Courts

In 1983, the state of New Jersey created a Task Force on the Improvement of Municipal Courts. A blue ribbon panel of 40 members of various organizations involved in traffic- and court-related functions identified the problems of New Jersey's system and recommended ways to fix them. A self-examination report presented the Task Force's recommendations for improvements. One recommendation specified the need to computerize the courts.

⁶Positions 7.3, 7.3.a, 7.3.b, 7.3.c, 7.3.d. Report resulting from the Supreme Court Task Force on the Improvement of Municipal Courts 1985, State of New Jersey, p. 198.

The Attorney General of the state, who oversees the Department of Motor Vehicles, provided a grant of \$8 million to initiate the recommendations. The grant financed the purchase of hardware communication lines. The "beta" version of the system was in place by 1985. In 1991, the New Jersey Legislature, recognizing the success of the new initiative, approved a \$1.00 surcharge on all "guilty" adjudications for traffic matters to fund ATS. N.J.S.A. 22A:3-4 included a "sunset clause" scheduled to repeal the surcharge on December 31, 1993.

However, a bi-partisan committee made recommendations to suspend the repeal and to continue levying the surcharge, resulting in S-875 being signed into law on December 22, 1993. That amendment to N.J.S.A. 22A:3-4 converted the ATS \$1.00 surcharge into a new \$2.00 ATS court cost assessment on "guilty" adjudications for *all* matters cognizable in the municipal court, effective February 15, 1994. The ATS court cost assessment is non-suspendable.

Presiding Judge-Municipal Courts DWI Project

As a result of a 1985 Supreme Court Task Force on the Improvement of Municipal Courts, the New Jersey Judiciary engaged an aggressive program to improve the quality of court management focused on continual review and better approaches for conducting court-related procedures. This effort also founded the basis for the management restructure of municipal courts and called for the appointment of vicinage Presiding Judges to oversee the municipal courts.

The program, called the "Presiding Judges-Municipal Courts DWI Project," has fostered the development of uniform case management techniques and related specialized training in selected aspects of municipal court operations. Application of these new techniques have enhanced the court's ability to respond to DWI cases. The state legislature signed funding for the program into law (effective February 15, 1994) authorizing the Chief Justice to appoint Presiding Judges Municipal Courts (PJMCs) at state expense.

PJMCs oversee the municipal courts within eight regions. They provide "oversight, direction and management assistance" to municipal courts to help improve time to disposition and reduce the backlog of cases in each court. PJMCs assist municipal judges in receiving adequate training in case management, DWI case law updates, and instruction on procedural matters for adjudicating DWI cases. Practices that are consistently shown to improve court services are applied in other courts.

In the state agreement to fund the project⁷, New Jersey recognized that traffic cases that "impact" public safety⁸ are "frequently contested and consume the greatest amount of judicial

⁷Project number A195-10-10-01, approved by the State of New Jersey, Department of Law and Public Safety, Division of Highway Traffic Safety, October 1, 1994.

⁸Including: N.J.S.A. 39:4-50 (DWI), 39:4-50.4(a) (Refusal to Submit to Chemical Test); 39:3-40 (Driving on the Revoked List); and 39:6b-2 (Driving without License).

time." The report proposed that by "targeting...impact offense[s] for expedited adjudication, the motoring public and highway safety are expected to improve." Therefore, the program goal is to reduce the number of backlog cases and the time to disposition for DWI cases as well as other high impact cases. Time to disposition sometimes exceeded 200 days in some courts. With the belief that sanctions that are "certain, swiftly applied and severe" are most effective in positively effecting drunk driving, New Jersey's goal for time to disposition, as set by the Chief Justice and the Supreme Court, is 60 days from date of arrest. As of June 30, 1995, the average time to disposition for DWI cases is 85 days at the 100th percentile and 63.6 days at the 90th percentile.

Total cost to fund the project from October 1, 1994 to September 30, 1995 (continuation) is estimated to be \$155,535 provided by a federal Section 410 Alcohol Incentive Grant.

Computerization of Municipal Courts

Implementation of a terminals, printers, communication lines, and other peripherals to establish online connection to the AOC mainframe is managed and conducted by the Administrative Office of the Courts, Municipal Courts Services Division. N.J.S.A. 2B:12 has mandated that all municipal courts establish online connectivity to the AOC Mainframe by the end of 1996. Each municipal court judge must request the installation of ATS in his/her court, or the court may use an inhouse or private vendor with an AOC-authorized interface to the AOC mainframe. As of Spring, 1995, 529 of the 538 municipal courts have either requested or received ATS. The courts currently connected to ATS process 78% of all DWI citations statewide (approximately 28,000 of 40,000).

When a request for ATS/ACS is made by a municipal court judge, AOC staff conducts a management survey of that court. The survey collects caseload statistics and information regarding court personnel; operations and record keeping procedures; physical dimensions of the office, equipment, and signage; and current state of computerization. After the survey, AOC provides the court a "Gray Book" containing the survey results, financial and procedural audits, and the recommendations for bringing the court up to the minimum standard established in the 1985 Task Force Report. A meeting is held with ATS staff, an AOC official, and the municipal court judge, court administrator, county level court person, mayor, chief of police, and business administrator. Once the court agrees (in writing) to meet the recommendations of the state (as provided to the court in writing), ATS staff initiate installation procedures and court staff training. It is the responsibility of the municipality to satisfy any agreed upon recommended improvements to the physical environment or operational procedures of the courts to meet adequate standards for ATS use within the court. The average time from meeting to training is five months.

All costs for hardware, software, communication lines, installation, training, and maintenance for the system are bore by the state. The cost varies from court to court dependent upon the size and caseload of the court. A general cost estimate is approximately \$20,000 for a

minimal configuration of two terminals, two printers, controller, and other associated equipment, in addition to ongoing monthly support costs. The cost incurred by the municipal court also varies according to the nature of the recommended enhancements that must be made to the court, such as painting, obtaining computer-ready furniture, improving records management and backlog reduction, and other renovations like floor plan redesign for better efficiency. These costs to the court are considered capital expenditures in court budgets. Although any costs incurred by the court are usually minor relative to the benefits of complete computerization and access to ATS and AOC mainframe, the operational changes are extensive because the court must completely reorganize around the computer system. After installation, no manual process is left. As stressed by ATS staff, the goal is to "fully automate a municipal court's procedures, ...not simply provide a computer for the municipal court."

As, noted above, New Jersey's municipal courts will be completely online by end of 1996. The apparent results already enjoyed by courts online are increased productivity, higher morale, and generally increased revenue. In terms of productivity for example, in March 1993 before the program was in place, the average time to disposition was 102 days with 5,296 cases in inventory. By the end of May 1994 after the program commenced, the time to disposition was reduced to 80 days with 3,398 cases in inventory.⁹

⁹As documented in the report for State of New Jersey, agreement for Presiding Judge Municipal Courts DWI Project.

III.E. Future System Enhancements

- ▶ Currently 18 of 21 jails are online with the AOC mainframe, and ATS municipal courts have access to the jail data. In the near future, all LEAs statewide will have access to e-mail.

- ▶ The New Jersey legislature has approved the use of hand-held ticketing machines for issuing parking tickets. The ticketing machines are expected to be in use in 1996. The data entered in the hand held ticketing machines will be transferred real-time to ATS.

- ▶ Currently, federal offices have access to the AOC mainframe through NCIC, as does the Immigration and Naturalization Services (INS), Federal Bureau of Investigation (FBI), and the Secret Service. The state of New Jersey has plans to establish wider dial-in access to its database of records. Clients such as private attorneys, interest groups, and private citizens will have limited access to civil records. AOC Municipal Court Services plan to download data and information from the mainframe database to a PC for public access. They anticipate three types of access: (1) formatted and/or standard reports (2) custom reports with user-defined parameters, and (3) electronic download of data for unique manipulation.

IV. NEW JERSEY'S CRITICAL PATH

Due to its dynamic functional relationships, the New Jersey DWI tracking system needs to be described in context with the sequence of procedures that comprise the "critical path." Along the critical path, there are several points of information exchange and various paths of information flow that make the administrative and judicial systems more effective. To help clarify these complex relationships, the explanations of both procedural processes and information flow are illustrated with flow diagrams and summarized in text boxes.

UNDERSTANDING THE FLOW DIAGRAMS

The flow diagrams illustrate both the sequence of procedures and exchange of information involved in the critical path of a DWI offender. The procedural steps comprising the critical path are colored in **black**, the data and information accessed by state organizations (*i.e.*, LEA, court, etc.) are colored in **red**, and the new data and information that is used to update the system database are colored in **blue**.

Furthermore, the communication paths indicating information access and input are distinguished as electronic transfers (solid lines) or hardcopy submissions (dotted lines). Since access and data collection are the key aspects of a successful tracking system, the significance of electronic versus hardcopy reporting will be discussed, also.

For a definition and further discussion about the "critical path" concept, please refer to chapter III, "DWI Critical Information Path," in Volume I, "Design & Operation," of this report.

IV.A. Arrest and Citation

As stated previously, a DWI violation is not a "crime" in the state of New Jersey; it is a traffic violation (§39:4-50). Over 98% of DWI citations are issued by state and municipal police agencies. Approximately 38,500 DWI citations were issued in 1993, with 13% issued to out-of-state licensed drivers.

There is no administrative license revocation (ALR) in New Jersey, and licenses are not confiscated until conviction. The illegal *per se* limit is .10 BAC for all drivers, .04 BAC for commercial vehicle operators, and .01 BAC for underage drivers.

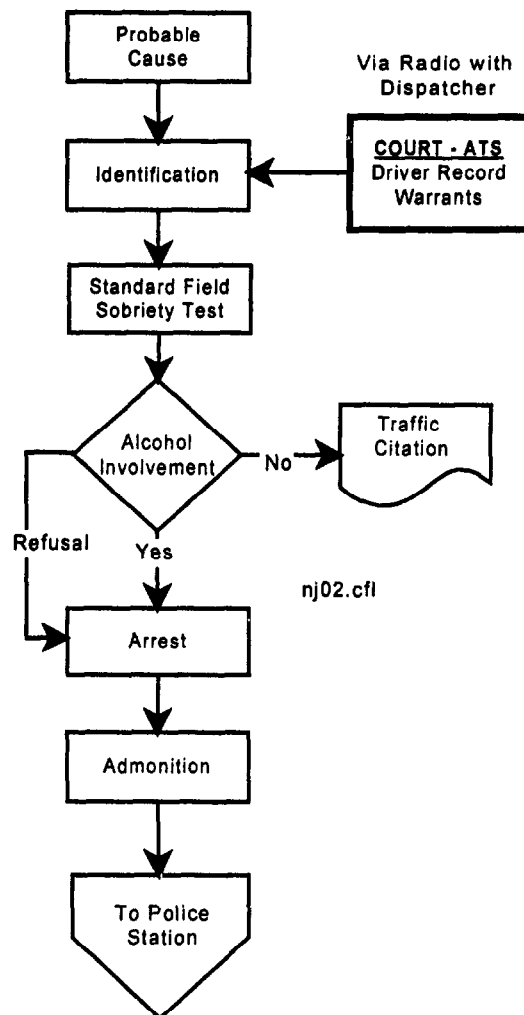
New Jersey State Police, Division of Highway Traffic Safety funds local police to conduct periodic "sobriety check points," especially during holidays. Approximately 15 to 20 events are conducted each year.

Probable Cause - Law enforcement officers stop drivers if they suspect reasonable or probable cause of a violation of New Jersey traffic laws, such as speeding, swerving, running a red light, etc.

Identification - A "Signal15" standard search of license status and warrants is conducted for each driver stopped for cause either at the scene or later at the police station. Officers on the road obtain driver history information, such as license status, from the dispatcher who accesses the DMV database. The dispatcher also provides officers warrant information from ATS. In New Jersey, arrests based upon warrant information accessed online from ATS is as legally sound as serving a paper warrant to the defendant.

New Jersey's unique driver license number algorithm allows dispatchers to verify driver identity, even in cases where fake licenses, false identification, or no identification is given. (See New Jersey, subsection III.C.2., "Driver Record," for more information.)

Psycho-Physical Test - The officer will administer standard field sobriety tests to determine alcohol involvement.



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Admonition - If the officer suspects alcohol involvement, an admonition of driver rights and the Miranda rights are read to the driver.

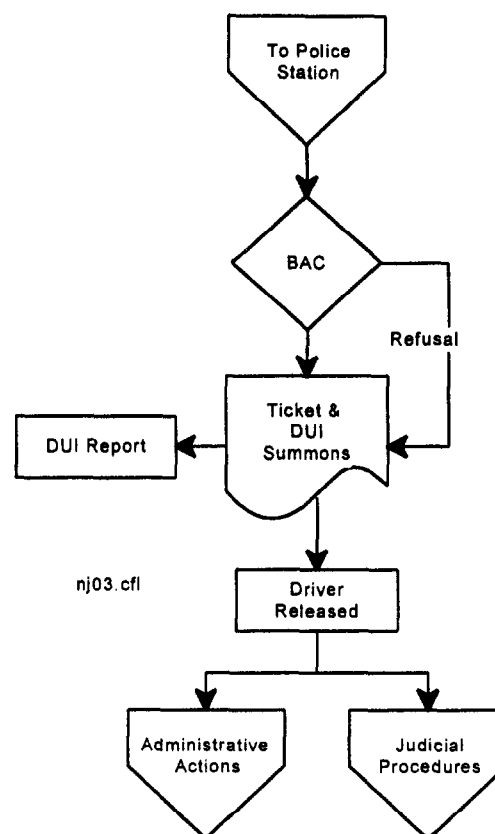
To Police Station - The breath analysis for alcohol concentration and arrest are conducted at the police station.

Breath Analysis - The illegal *per se* in New Jersey is a BAC of .10. All breath analysis tests are conducted at the police station. There is implied consent for chemical testing for alcohol, but the consent does not include testing for drugs. Analysis equipment is checked regularly and calibrated approximately once a month according to mandate. Each defendant provides two blows, if they register within .01 of each other, the results are acceptable and recorded. However if the first two blows do not register within .01 of each other, police are allowed to administer a third blow. If the last two register within the required range, the test results can be used.

Uniform Traffic Ticket - A Uniform Traffic Ticket is used for all violations involving the operation of a motor vehicle including DWI. All tickets are inventoried within each municipality by the municipal court administrator, except for the state police which maintains its own inventory. Only one charge is made per ticket. New Jersey law enforcement officers can serve the citation directly to the DWI offender or it can be served via mail or left with personal effects without creating cause for administrative dismissal.

Detainment or Release - Eighteen of New Jersey's 21 jails have direct, electronic access to the prosecutor's records. "Signal 15" standard search of license and warrants will be conducted if police have not already done so. DWI defendants are not fingerprinted, nor is a criminal check conducted unless there is cause to do so. There is usually no detainment for DWI arrests unless the defendant is incapacitated or if a member of the family or other responsible adult cannot escort the defendant from the police station.

Reporting - The issuing LEA is required to submit citations within three working days (or five days for state police) to the municipal court of its jurisdiction. Because most police stations are co-located with the court house, the citations are usually dropped off by the police officer daily. State police usually deliver DWI citations within five days, they often fax DWI citations to municipal courts to expedite the court procedures. Policy directive of the courts specify that data entry of citations be performed within three days of issuance.



Each ticket has four duplicates. The front of all the duplicates contains the information above and the back contains different information for each of the following recipients:

1. Complaint Court copy.
Information regarding bail, fines, court actions, charge, plea, jail, driver license revocation, treatment requirements, and other sanctions, as well as the judge's comments and signature.
2. Police Record LEA copy.
Disposition information regarding adjournment, bail, sentence, officer's comments, and listing of any witnesses for trial.
3. Officer's Copy Same as LEA copy.
To be used for reference in the event that testimony is required in court. Comments could include information regarding the violation such as speed, reckless driving description, statements made by driver, etc.
4. Summons/Complaint . . . Offender copy.
Instructions for pleas, court appearance, payment, fine schedule, rights, etc.

The state provides a standard format for Uniform Traffic Tickets that can be customized (with approval by AOC) with additional information by each LEA for its jurisdiction. It is the responsibility of the municipal court administrator to procure, keep accurate inventories, and distribute all Uniform Traffic Tickets for his or her jurisdiction. State police are not under the jurisdiction of any one municipal court; therefore, they inventory their own supply of tickets. All tickets used, damaged, or voided must be returned to the court. If officers make a mistake filling out a ticket, they are instructed to correctly fill out a new ticket and to submit both the correct and incorrect ticket stapled together to the courts. Errors can be corrected only by the court. Because all traffic tickets are strictly inventoried, management reports are regularly generated for missing or delinquent disposition of citations.

IV.B. Administrative Procedures

Unless the defendant fails to appear in response to the summons, there are no provisions for administrative license revocation, all licensing actions are ordered by the courts as a result of convictions for DWI. The role of the Department of Motor Vehicles (DMV) is to administrate the suspension, revocation, or reinstatement of licenses as ordered by the court.

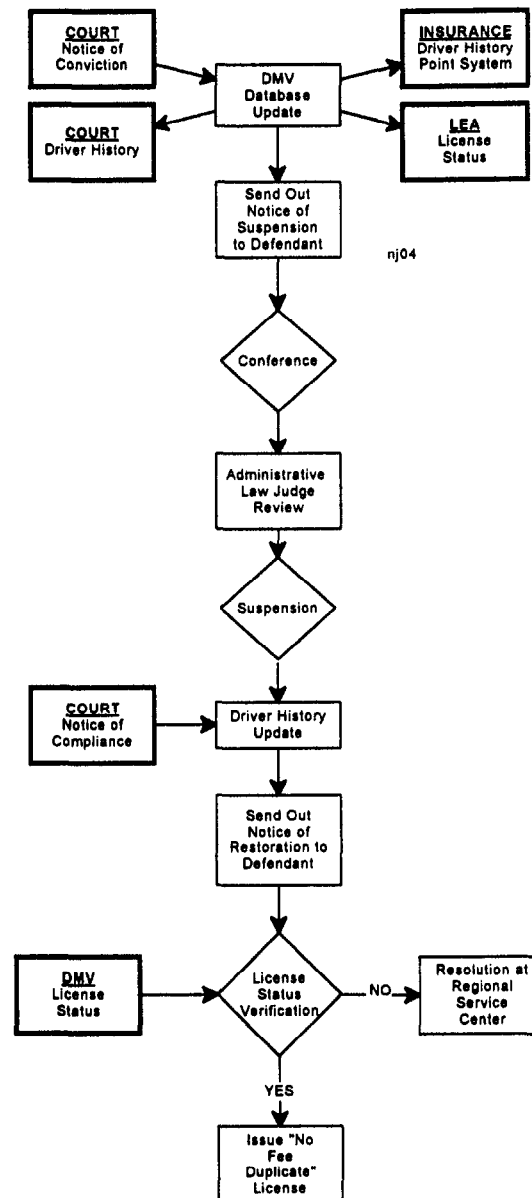
Notice of Conviction - The DMV does not receive any notice of DWI citation or arrest. Only dispositions are reported to DMV to be updated on driver records.

Plea bargaining is not permitted by mandate of the Supreme Court of the state; therefore, no reduction in charges are permitted. All DWI violation records that appears on a driver record indicates a disposition. Arrests do not appear on the driver record without disposition unless the defendant's license was suspended for failure to respond to the summons.

Notice of Suspension - At the time of sentencing, convicted drunk drivers are notified of license suspension or revocation by the judge, and once the courts notify DMV of the conviction, a Notice of Suspension is sent to the offender as official notice by the DMV.

Licenses are confiscated by the court at the time of disposition and forwarded to DMV by mail. DMV destroys all suspended and revoked licenses; they do not keep the New Jersey licenses on file. Out-of-state licenses confiscated by the courts are returned with notification of arrest and conviction to the home state by DMV.

Conference - There are no administrative hearings for license suspensions or revocations, other than those ordered by the court for DWI. However offenders may request a conference to be held at DMV to contest any error in their driver history or license status upon which arrest or sentencing was based. For example, drivers arrested for driving while suspended may contest the correct status of the suspension.



DMV confirms the accuracy of the records, but if offenders request another review by an administrative law judge, one is conducted. The decision of the DMV is final concerning the accuracy of driver records.

Notice of Reinstatement - Once offenders have fully complied with all the requirements of sentencing, the courts sends notification to DMV of sentence completion. DMV updates its driver records and sends out a Notice of Restoration to the offender.

License Reinstatement - The offender is responsible for obtaining a new license upon receiving the Notice of Reinstatement. The Notice should be taken to one of the four Regional service Centers or to one of the 48 Motor Vehicle Agencies located throughout the state. A "no fee duplicate" license is issued after the field office confirms license status by accessing the DMV database.

If the verification from DMV database does not confirm reinstatement, drivers are required to go to a Regional Service Center to resolve the issue.

Reporting - The courts download disposition data to DMV via tape to tape transfer once a week. Current non-ATS courts mail reports to DMV on a weekly basis, where DMV clerks enter the information into the database. Record of convictions appear on driver records within 10 days of disposition. No arrests are shown without convictions (unless there was a failure to appear), and license status is continuously updated.

DMV data includes license status, vehicle registration information, driver history of suspensions, restoration, points, log of communications with DMV, schedule of notices, and insurance information. There are automatic functions of the DMV system that monitor driver information; for example, if vehicle registration is suspended, this automatically triggers a license revocation.

Prosecutors, defense attorneys, and court officials may submit requests for certified (hardcopy) documents at DMV to be used as court-admissible documents. Legislation is currently in review that would allow data accessed online from the DMV database (with electronic certification) to be used as "official" records, eliminating the need for hardcopy certifications. DMV provides information to other requestors such as insurance organizations, private attorneys, and the general public.

IV.C. Judicial Procedures

Ninety-nine percent of all DWI cases are heard in municipal courts. Nearly all of the state's municipal courts are already online with the statewide ATS. The remaining courts are required to obtain online access to ATS by the end of 1996.

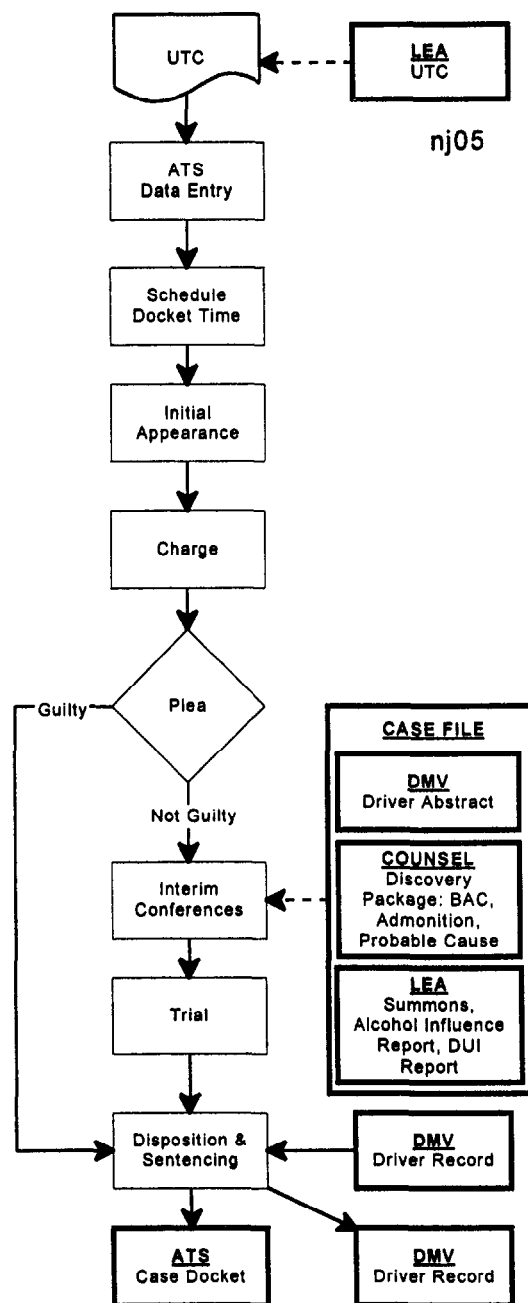
Using the ATS data, management reports are used by court administrators and judges to review court backlogs, calculate the average time to disposition, check citation inventory, etc. These management reports have helped New Jersey courts reduce its average time to disposition to 85 days; their goal is to further shorten the time to 60 days.

ATS Data Entry - All traffic citations are entered into ATS. ATS is a incident-based system that tracks case data and is not used to compile offender records. Only the courts receive a hardcopy summons of arrests for DWI. Case records are created in ATS by which case progress is tracked. The administrators continuously update the case records with information regarding court proceedings, trial procedures, sentencing, fines paid, status of sanctions, penalties, and probation compliance, including DUI education and/or treatment.

Docket Time - Each offender must call the court clerks to schedule docket time for initial traffic hearing for DWI arrests. Local police appear in court as scheduled by the courts (overtime is provided) and clerks have access to work schedules of state police so that appearance by arresting officers can be more efficiently organized.

Initial Hearing - Court location and time of the hearing is provided on the DWI Summons served to the offender at the time of arrest. Offenders enter their pleas and are advised of their rights. Indigent offenders may make application for a public defender at the initial hearing. Over 50% of all offenders in New Jersey plead guilty at the initial hearing.

Interim Conferences - DWI offenders may be involved in interim conferences with prosecutors and defense attorneys to review discovery. By mandate of the New



Jersey Supreme Court, plea bargaining is prohibited in DWI cases. DWIs cannot be reduced or dismissed unless due to lack of evidence. Discovery often presented include:

- ▶ DWI Summons
- ▶ Probable Cause Statement
- ▶ Driver Abstract
- ▶ Discovery Package
 - ~ BAC Test Results (with machine calibration certifications)
 - ~ Admonition
- ▶ DUI Report
- ▶ Alcohol Influence Report

Disposition & Sentencing - Nearly 78% of all offenders who plea "not guilty" at the initial hearing later plea or are found "guilty" upon trial. Judges inform convicted offenders of sanctions and penalties due to the court and various other funds related to DWI restitution and programs. Driver licenses are immediately confiscated and later mailed to the DMV for destruction or return to home states. Upon completion of sentence requirements, the courts notify DMV of compliance whereupon licenses may be reinstated.

Reporting - Nearly all the municipal courts have ATS terminals in the courtroom where court staff enter the disposition and sentence upon disposition. Conviction and sentencing information is then available real-time on ATS, including to the court cashiers who collect court assessments, fines, and fees related to hearings or sentencing. A hardcopy of the summons with conviction information is forwarded to the DMV with the confiscated driver licenses.

IV.D. Education, Treatment, and Rehabilitation Facilities

All first time DWI offenders in New Jersey must participate in a 12-hour evaluation conducted by the Intoxicated Driver Rehabilitation Center (IDRC). IDRC is operated by the Bureau of Alcohol Countermeasures, Intoxicated Driving Programs Unit of the Department of Health. There are 21 IDRCs located throughout the state. After psycho-social evaluations and mandatory DWI education, the offender may be referred to treatment for an alcohol-related problem.

Upon the second or third conviction for DWI, offenders must obtain treatment by one of the private treatment centers licensed by the state. The flow of information between the court and IDRC is exception driven, meaning that the courts are not notified unless an offender does not comply with the court order. Information flows between IDRC and the courts via hardcopy letters.

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ACKNOWLEDGEMENTS

The following representatives from key stakeholder agencies were interviewed for this analysis of New Jersey's DWI tracking system:

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I. LEGISLATIVE BASIS

In 1984, the New Mexico legislature passed the laws allowing immediate revocation of driving privileges if an individual was arrested for DWI. The traffic safety community in New Mexico needed a mechanism to accurately track and manage the DWI citation and revocation process. As a result, the DWI Citation Tracking System was developed. Although the system, itself, was not formally mandated by legislation, the state's need for the system arose from the passage of the ALR laws.

It is noteworthy to mention one unique catalyst for New Mexico's system development and implementation. Whereas the laws in New Mexico indicated the state's serious intention to fight DWI, an information system to support the effort was lacking until 1992. On December 24 of that year, while touring neighborhoods brightly decorated for the season, three children and their mother were killed by a drunk driver in Salt Lake City. Unfortunately, the reality is that such occurrences happen regularly across the nation, however, this Christmas Eve tragedy received concentrated media attention in Utah. The public outrage generated more awareness about the state's problem with DWI. Because state traffic safety administrators were prepared with draft legislation in hand, they were ready to respond rapidly to the public's demand for solutions. The empowering mandates were passed that allowed New Mexico to receive the necessary funding and authority to develop the DWI Citation Tracking System, as well as put into place key anti-drunk driving programs, such as "Operation DWI" sobriety check points.

New Mexico maintains both administrative and criminal elements designed to reduce the effects of DWI. An implied consent law was passed in New Mexico to administratively revoke a persons driving privilege if the individual either refuses to submit to chemical or breath testing, if the person is under 21 and has a BAC greater than 0.02, or if the person is an adult with a BAC of 0.08 or more.

I.A. Judicial Sanctions

Section 66-8-102 of the New Mexico State statutes identifies the laws and penalties for persons driving under the influence of alcohol or drugs. The following table summarizes the criminal actions and basic sentences for DWI as addressed in Section 66-8-102.

Summary of Judicial Sanctions for DWI in the State of New Mexico				
Not all sanctions are included in this table, see text for more detailed descriptions.				
New Mexico: § 66-8-102, 105 - 112		Illegal Per Se: 0.08 BAC; Underage 0.02 BAC; CVO 0.07 BAC		
DWI CONVICTION*	JAIL (Mandatory time must be consecutive)	FINES AND COSTS	LICENSE REVOCATION	OTHER
1ST Misdemeanor §66-8-102E	Mandatory: 48 hours if offender fails to comply w/ sentence Maximum: 90 days	Maximum: \$500 License Fee: \$100 Crime Lab Fees: \$35 Community Fee: \$75 DWI School: \$75-100 Alcohol Screen: \$100-200	1 year § 66-5-29A	Mandatory: DWI school and screening Possible: 48-hrs community service, treatment
2ND Misdemeanor § 66-8-102F	Mandatory: 7 days if offender fails to comply w/ sentence Mandatory: 72 hours Maximum: 364 days	Maximum: \$1000 Mandatory: \$500 License Fee: \$100 Crime Lab Fees: \$35 Community Fee: \$75 DWI School: \$75-100 Alcohol Screen: \$100-200	1 year	Mandatory: 48-hours community service and screening Possible: treatment
3RD Misdemeanor § 66-8-102F	Mandatory: 60 days if offender fails to comply w/ sentence Mandatory: 30 days Maximum: 364 days	Maximum: \$1000 Mandatory: \$750 License Fee: \$100 Crime Lab Fees: \$35 Community Fee: \$75 DWI School: \$75-100 Alcohol Screen: \$100-200	10 years if two prior convictions are within 10 years of the 3rd conviction; otherwise: 1 year	Mandatory: screening Possible: treatment
4TH OR SUBSEQUENT 4th Degree Felony § 66-8-102G	Mandatory: 6 months Maximum: 18 months	Maximum: \$5000 License Fee: \$100 Crime Lab Fees: \$35 Community Fee: \$75 DWI School: \$75-100 Alcohol Screen: \$100-200	10 years if two prior convictions are within 10 years of the 3rd conviction; otherwise: 1 year	Mandatory: screening Possible: treatment
*Section 66-8-102D specifies the charge of Aggravated DWI (ADWI) for persons who: has an alcohol breath concentration of 0.16 or greater; has caused bodily injury to a human being as a result of DWI; or refused to submit to chemical testing as provided for in the Implied Consent law. Sanctions for ADWI include: (1) first conviction - mandatory additional 48 hours in jail; (2) second conviction - mandatory additional 96 hours in jail; and (3) third conviction - mandatory 60 days in jail.				

I.B. Administrative Sanctions

Section 66-8-105 through 112 addresses New Mexico's Implied Consent law. Specifically, Section 66-8-111 defines the administrative action if a person suspected of alcohol impairment refuses to submit to chemical or breath testing. Section 66-8-111B provides for the revocation of the drivers New Mexico license if they refuse to submit to testing. The revocation will last for one year or until all conditions for license reinstatement have been met. Provisions have not been made to retain the licenses of out of state drivers suspected of or proven to be under the influence of alcohol. After the arrest, the state of residence is notified of the DWI, and the driver is not allowed to drive in New Mexico for a period of one year.

Section 66-8-111C provides for the officer to administratively remove the drivers license and for the MVD to revoke the license following these guidelines:

- if the driver is 21 years or older, the license will be revoked for 90 days or until all reinstatement conditions are met;
- if the driver is less than 21 years of age and has not previously had a DWI, the license will be revoked for 6 months or until all reinstatement conditions are met; or
- if the driver has had a previous DWI revocation, the license will be revoked for one year or until all reinstatement conditions have been met.

Section 66-8-112 provides for the effective date of the revocation to be 20 days after the notice of revocation was given. Within 10 days after receipt of revocation notice, a person may request a hearing from MVD to attempt to have the revocation overturned. MVD must hold the hearing within 90 days of request. If the revocation is sustained, the driver may seek review of the revocation in 30 days by the district court. Hardship licenses may be granted depending on circumstances.

II. SYSTEM STAKEHOLDERS

Law Enforcement Agencies

The New Mexico Law Enforcement Agencies (LEAs) that issue DWI citations include the Bernalillo County Sheriff's Department, Albuquerque PD, New Mexico State Police, local LEAs, and Indian Reservation Police. Their need for reliable information stems from the fact that accuracy is crucial in New Mexico at the time of arrest in order to obtain warrant information or criminal offense information. In addition, the New Mexico police are required to charge the offender at the time of booking. This requires accurate historical information on the offenders driving record. After booking, the charge cannot be amended. Judges may impose stiffer sentences if an investigation into the offenders driving histories illustrates additional DWI's.

LEAs receive information from MVD, NCIC, and the New Mexico criminal justice information system.

Courts, Prosecutors, Defenders

Four courts adjudicate DWI cases in New Mexico. These include municipal courts (lower courts where judges are elected officials not requiring a law degree), magistrate courts, district court (where felony and appealed cases are heard), and Albuquerque's Metropolitan Court. Metro court hears approximately 40% of all DWI cases in New Mexico. Metro court has an automated case information system that provides detailed information to key stakeholders working within the Metro court system, however, there are no formal procedures in place to communicate with stakeholders outside of the Metro court system. All of the other courts currently send disposition information to MVD via delivery of the citation abstract.

Prosecutors and defenders are key stakeholders due to their need for offender information, both regarding the current charge, as well as historical charges. The District Attorney's office has built an in-house, case management system for use by prosecuting attorneys. The system allows each DWI case to be tracked in terms of noting offender biographical information, trial times and locations, case actions, appeal data, bond information, charges, dispositions, sentences, pleas, and other pertinent data. The system is a PC based system and is for prosecutor use only. Accurate records and record acceptance are crucial to both the prosecutors and defenders. Anecdotal information provided by the public defenders office indicates that MVD record acceptance has not been given high priority. In addition, the New Mexico statutes finely articulate actions necessary to prove prior convictions. The public defenders office indicated that currently New Mexico's system does not provide the tools necessary for accurate record acceptance.

Information is provided to the courts by LEAs, criminal justice information system, pre-sentencing investigations, MVD, detention centers, and treatment centers. The courts provide information to MVD, LEAs, attorneys, offenders, correction, probation officials, and court administrators.

Motor Vehicle Division

MVD is the primary repository of DWI information for the state. As this, they are required to provide historical information to the courts, attorneys, etc. to allow adjudication to be fairly administered. This requires MVD to maintain records for all citations issued and their end results. Under the current system, MVD is bound by the actions of other stakeholders as to their receipt of information. Processes have been established for the provision of data, however, there are no subsequent penalties incurred as a result of failing to provide the information. MVD is currently working with the Judicial Information Systems group to resolve many of the data delivery requirements (see Section V).

MVD receives information from LEAs, and the courts. MVD provides information to LEAs, courts, attorneys, pre-sentence investigations, detention centers, corrections, treatment facilities, and the Department of Health.

Administrative Office of the Courts

The AOC is not directly responsible for the dissemination of DWI information, however, they provide critical information regarding the compliance of sentence requirements. The AOC receives fine payment information and reports non-compliance to MVD and courts.

Judicial Information Systems

The JIS is currently designing a citation tracking system for each court except Metro Court. The system will provide detailed case management information and allow specific information to be automatically sent and received by key stakeholders after case actions. For example, after an offender has been convicted of a DWI offense, the system will automatically provide that information to MVD, resolving the current problems of information delivery at MVD. The JIS system is further described in Section V.

Division of Epidemiology

The New Mexico's Division of Epidemiology is the department that has been charged with investigating, recommending, and tracking treatments, and treatment methodologies. Epidemiology is currently planning on developing a post-adjudication tracking system with revenue generated by additional liquor taxes (current year design budget is \$5,000,000). Currently, New Mexico has established county wide planning commissions to propose various treatment projects. The commissions' main tasks are to screen and assess

offenders, design prevention programs, operate treatment programs, monitor and operate alternative sentencing programs (e.g., community service), and act as coordinators and evaluators. According to the director of the tracking program at Epidemiology, many of the commissions are not capable of designing credible programs due to their lack of subject matter expertise. The theoretical design of the new system will allow offenders to be tracked for sentence compliance, as well as recidivism.

III. SYSTEM DESCRIPTION

Currently, New Mexico's DWI Citation Tracking System (DWICTS) is designed to capture specific information about DWI following both a DWI arrest, and court action. The system can be characterized as a statistical data collection system in that the information is used to illustrate the magnitude of the DWI problem, rather than manage specific DWI cases. The effectiveness of the New Mexico system is evident as illustrated by the current development of a sophisticated case management system to be implemented in November, 1995 (see Section V). DWI has long been viewed as a problem in New Mexico, therefore, significant effort has been put forth in the development of a statistical tracking system. The following system description applies to the current DWICTS as maintained by the Motor Vehicle Division, the states official record repository.

New Mexico's DWI Citation Tracking System (DWICTS) maintains its data in a DB2 file owned by the New Mexico Motor Vehicle Division (MVD). As illustrated in the data flows described later, MVD keeps track of all formal DWI proceedings (criminal and administrative) and tracks them in a computerized file known as the DWICTS. The DWICTS is part of a large data collection system owned by the Taxation and Revenue department of MVD. The overall system is made up of several linked DB2 tables (e.g., driver license table, tax payer table, traffic citation table, and the DWI citation table). DWI information is received and input into the system *generally twice*; after arrest and after court disposition (either conviction or sentencing). After DWI information is received, MVD enters the data into the data system. Figure 1 illustrates a high level view of the DB2 system. As the data is entered, it is automatically placed in the appropriate field, regardless of whether it is tax, DWI, or other types of information. The tables are linked by common fields such as citation number, name, date of birth, drivers license number, etc.

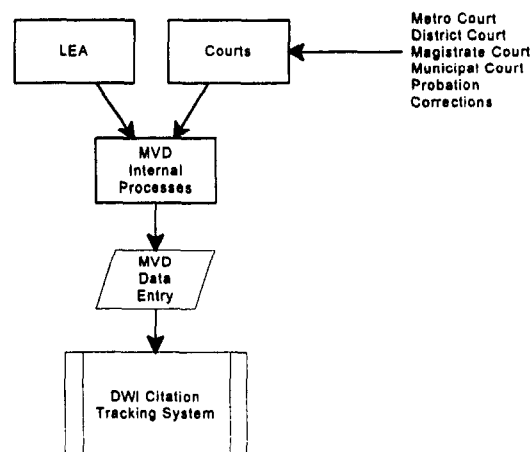


Figure 1

The DWICTS relies on both Law Enforcement Agencies and courts to provide timely information. LEAs are required to complete the DWI citation (see Attachment 1) and return a copy of the citation to MVD. This establishes the record at MVD and will be updated pending receipt of information from the courts. Some problems were noted with regard to receiving court processed information. Most notably, some judges wait until sentencing is passed before sending any of the information to MVD. This causes extreme delays in MVD's ability to maintain timely and accurate information. For example, if an individual was arrested on January 1, MVD would be notified shortly thereafter and an arrest record would be established on the DWICTS. If a conviction was given in May but sentencing was delayed

until November, MVD would not receive any court information until November. Other problems include the failure of a judge to render disposition information to MVD. This creates unusual holes in the data since there would be an arrest on file not linked to any disposition information. These problems promulgate more obstacles in that there maybe questions regarding MVD's record acceptance in court, prior convictions may not be able to be proven, and missing or inaccurate information may violate the offenders constitutional rights.

According to the Judicial Information System Division, the new New Mexico system will provide real-time access to traffic records. After any court action has been taken (continuances, dismissals, etc), the action will be noted on the automated record and updated at MVD.

As part of the statistical analysis performed with the DWICTS data, Traffic Safety Bureau (TSB) of the New Mexico Highway and Transportation Department extracts data from the MVD file into SAS formatted files, coupled with crash data obtained from MVD to produce extensive DWI statistics and a DWI statistics publication entitled "Driving While Impaired in New Mexico 199x" (see Attachment 2). The report addresses several topics::

- *DWI Impact on New Mexico* - Alcohol involved fatalities and injuries, contributing factors in fatal crashes, victims of alcohol involved crashes;
- *Laws* - DWI penalties in New Mexico;
- *Where* - Alcohol involved crashes and DWI convictions by county, alcohol involved crashes and DWI convictions by city;
- *When* - Alcohol involved crashes and DWI arrests by month, alcohol involved crashes and DWI arrests by day of the week, DWI arrests by hour of the day, alcohol involved crashes by hour and severity;
- *Who* - New Mexico DWI arrests by age and sex, alcohol involved crashes and DWI convictions by driver age and sex, DWI arrests by police agency, DWI arrests by type of court;
- *BAC Tests* - Percent BAC test refusals by year, BAC test results;
- *Case Results* - Mean number of days to court disposition by county;
- *Trends* - DWI conviction rates and alcohol involved crash rates; and
- *Repeat Offenders* - Repeat DWI convictions by year, total number of DWI convictions for drivers convicted of DWI, DWI repeat convictions by age and sex.

DWICTS Information Flow - Summary

Figure 2 illustrates the major components of the DWI citation, who receives copies, and how the information ultimately ends up in the MVD database. After an officer makes an arrest

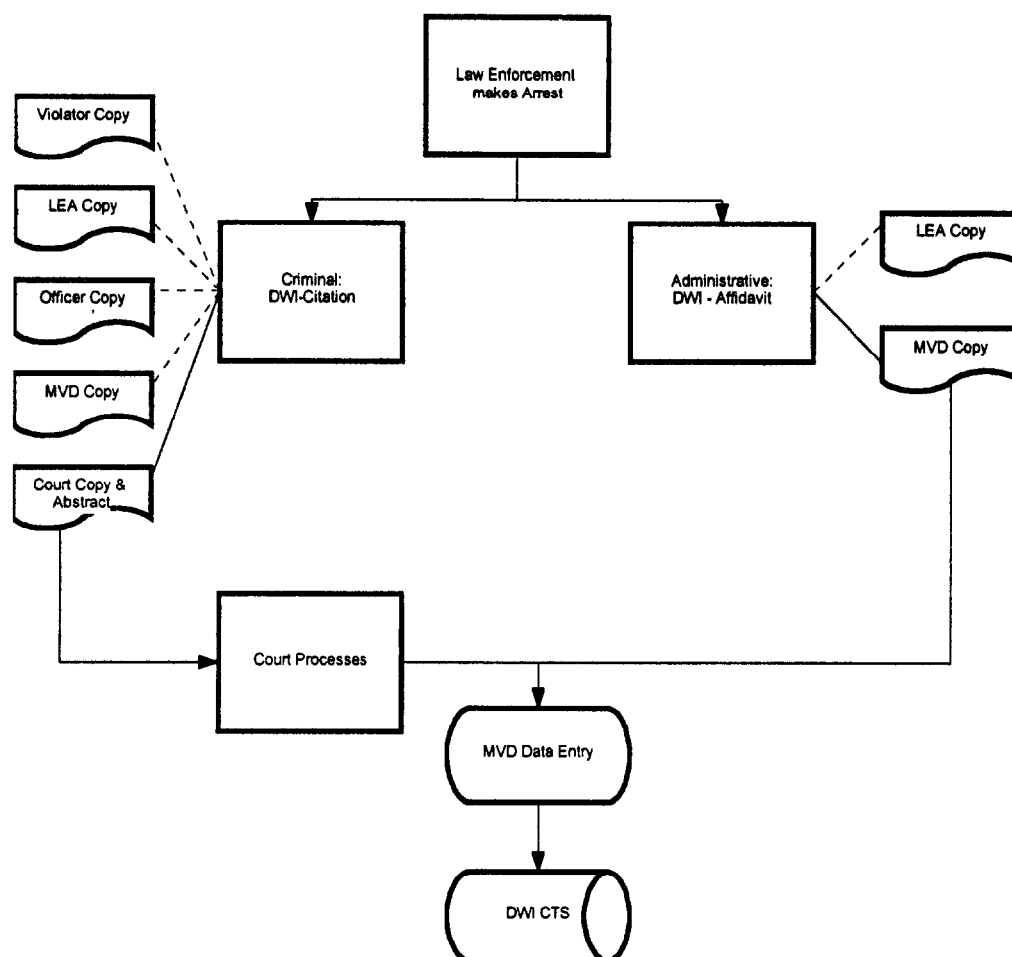


Figure 2

for DWI, they complete the DWI Citation which is comprised of two distinct forms: the DWI Citation and the DWI Affidavit.

The Citation is used to prosecute the driver along the criminal track (i.e., courts, detention centers, etc.), and the Affidavit is used to pursue the administrative actions (i.e., ALR). After the officer completes the DWI citation, they give one copy of the citation to the driver. This copy contains not only pertinent information about the DWI infraction, it also contains information about the notice of revocation and a temporary New Mexico drivers license. Additional copies go to the LEA's file, the officer's file, and MVD. The court receives both a copy of the DWI citation and the court abstract that will be used to track the action through the court system. The abstract contains relevant information about the citation, pleas, findings, sentence, and the names of the court and judges. It is sent to MVD following dismissal, conviction, or sentencing.

The Affidavit contains the essential information needed to administratively revoke a drivers license. The officer completes the affidavit, retains one copy for the law enforcement agency, and sends one copy to the MVD. After MVD receives either information regarding the criminal or administrative actions, MVD clerks enter the data into the MVD data file (DWICTS).

Figure 3 provides an overall illustration of how a DWI offense is handled in the criminal and administrative processes and illustrates MVD's reliance on court actions for data receipt. After the law enforcement officer makes the DWI arrest, two distinct (and currently) separate operational processes begin. MVD, who is the official record repository of the state, is not involved in the criminal side of the proceedings until a final disposition has been prepared and delivered to MVD for data entry.

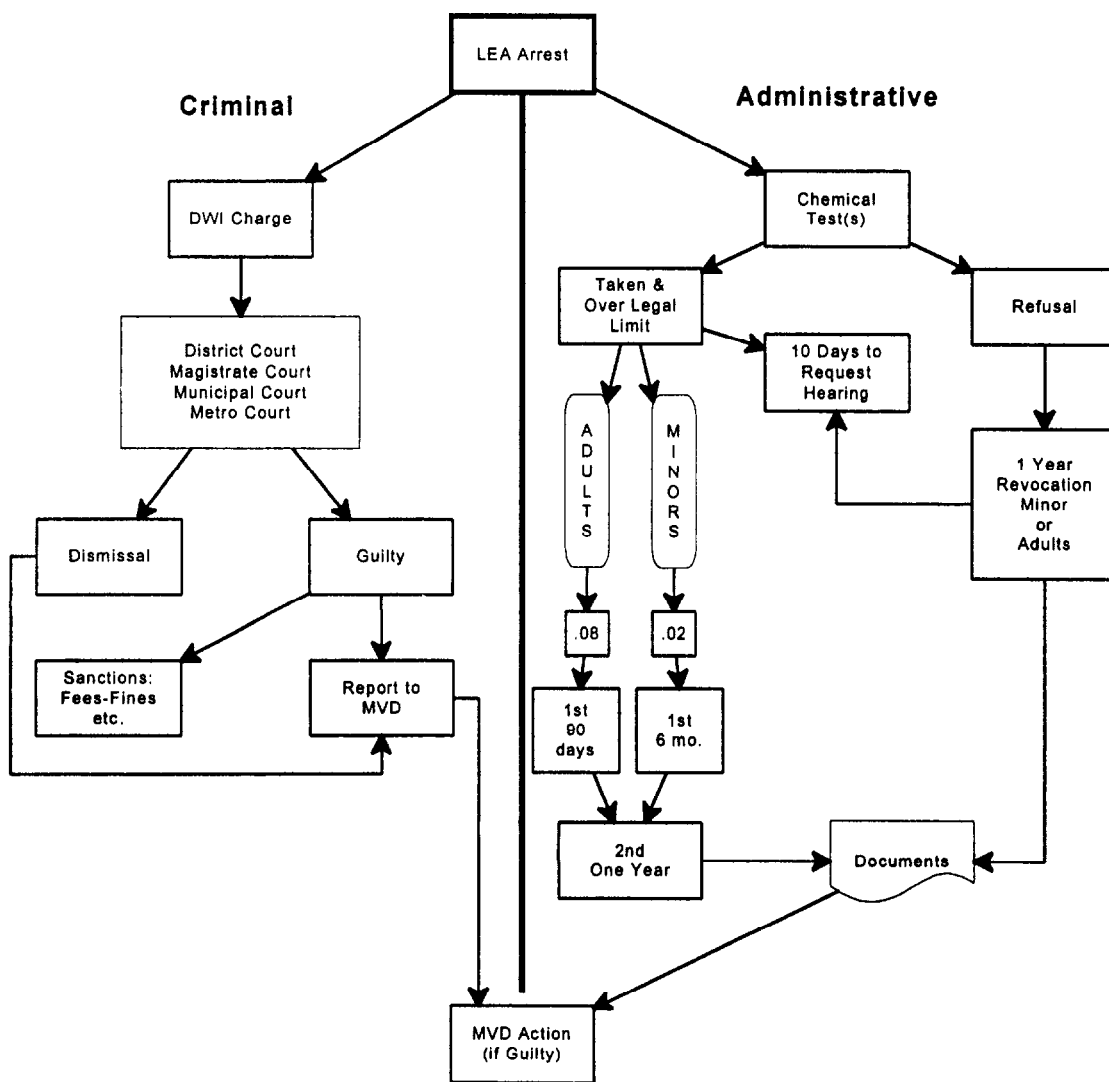


Figure 3

DWICTS Data Elements

The following data are extracted onto the DWICTS data file. Each data element has been categorized as either related to the person or accident, law enforcement agency, motor vehicle division, courts, or other.

Person/Acc	LEA	MVD	Courts	Other
Accident Y/N	Agency	Commercial Vehicle	Appearance Date	BAC Code
Adult	Citation Number	Hearing AM / PM	Appearance Request Date	BAC Test Date
Aggravated DWI	Citation Check Digit	APR Hearing Date	Appearance Result	County
Date of Birth	Citation Sequence Num	APR Hearing Req Date	Attorney's City	Jail
Driver ID		Hearing Location	Attorney's First Name	Jail Served
Expiration License		Hearing Officer	Attorney's Last Name	Jail Suspended
First name		License Class	Attorney's State	Jailor Name
Generation		License Number	Attorney's Street Address	Key ID
Hazardous Material		License State	Attorney's Zip	Lab Fee
Intersection		License Type	Court Cost	Mail Date
Light		License Plate Num	Court Name	DWI School
Location		License Plate State	Court Date	
Middle Initial		Suspend	Court Docket Num	
Milepost		Violations Code	Findings	
Last Name		Violations Date	Fine	
City		Revocation Start	Fine Suspended	
Road		Revocation End	Hearing Req Date	
Residence Street & Zip		Appeal Date - ALR	Hearing Location	
Sex		Appeal Result - ALR	Hearing Officer	
SSN		Appeal Temp License - ALR	Hearing Result	
Status			Plea	
Time			Waive Attorney	
Traffic			Appeal Date - Criminal	
Weather			Appeal Result - Criminal	
Year			Bond Forfeiture	
Zip			Disposition	

New Mexico's DWI Data Flow

To fully understand how the flow of information is conducted in New Mexico, flow charts have been constructed. Following a study conducted by Los Alamos National Laboratories, we will characterize the information flow into 8 sections:

- Apprehension to Arrest
- Arrest to Booking
- Booking to Arraignment
- Arraignment to Trial Setting
- Trial Setting to Sentencing
- Sentencing to Disposition
- Records Management
- Administrative License Revocation

In addition, the information flow of actual DWI citations and affidavits will be depicted.

Apprehension to Arrest

Apprehension - The officer stops a driver that is suspected of possible intoxication. Probable cause includes running red light, swerving, etc.

Apparent Alcohol Involvement - The officer assesses if the driver is possibly using alcohol. If so, the officer may ask the driver to perform SFST.

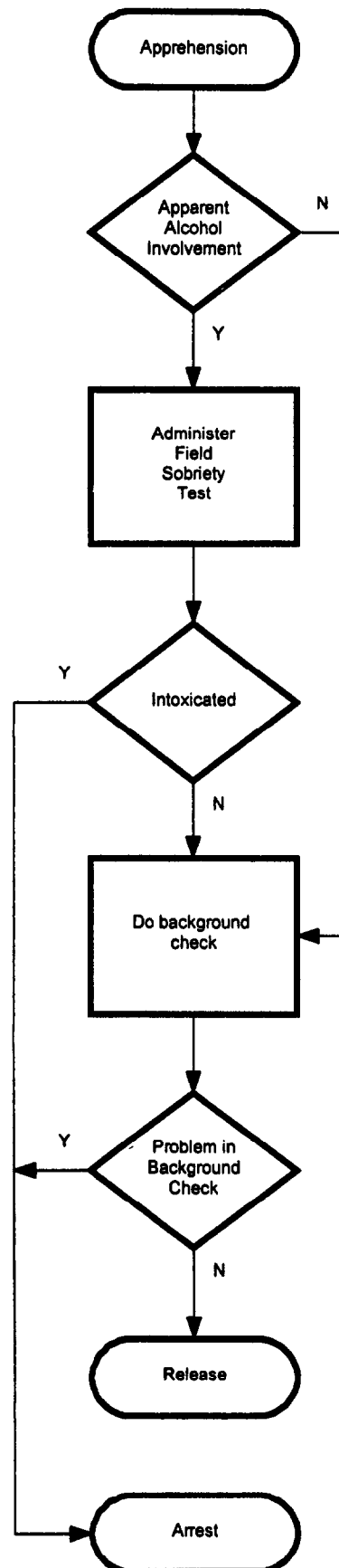
Administer SFST - The officer conducts the SFST.

Intoxicated - Based on the SFST, the officer determines whether the driver is intoxicated. If the driver is intoxicated the officer makes the arrest.

Do Background Check - The officer checks the NCIC databases to check the status of the driver based on the driver's license number and vehicle registration.

Problem in Background Check - If no information is obtained, the officer may write a Uniform Traffic Citation (UTC). If derogatory information is obtained, the officer may arrest the individual for DWI as well as write a UTC.

Arrest - The officer arrests the driver.



Arrest to Booking

Arrest - The officer arrests the driver, and takes them into custody.

Write Traffic Citations - The officer writes the UTC if applicable. Copies go to the court, MVD, and detention centers.

Blood Alcohol Test Refused - The officer asks the driver to submit to a breath test. Tests may be administered in the field, at a mobile BAT, or a detention center. When the driver refuses, the officer confiscates the license and completes the Notice of Revocation form, initiating the administrative revocation process.

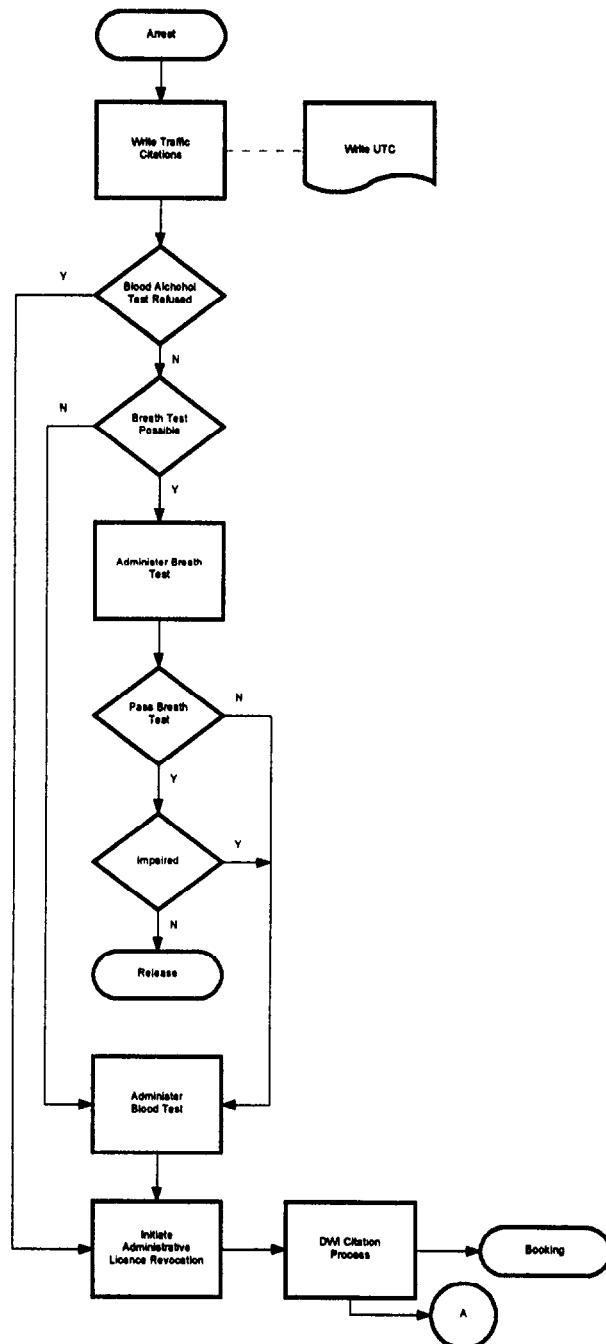
Breath Test Possible - If the driver is unable to take a breath test, the officer requests a blood test.

Administer Breath Test - Breath test results are immediately known. BAT results go to the court, detention center, and MVD. The officer keeps their copy of the DWI Affidavit until test results are known. At that time, the Affidavit is sent to the court.

Pass Breath Test - A driver with a BAC of less than .08 is released unless behavior warrants further tests or the officer feels the driver is impaired. Otherwise they are arrested and ALR is started.

Impaired - If the breath test is passed, but the officer feels the driver is still impaired, they may decide to arrest.

Administer Blood Test - If a blood BAC is required, the officer arranges to obtain a search warrant from a judge or permission from a relative prior to testing. The officer sends the sample to a qualified lab and the results are forwarded to the officer after completion (generally 2-4 weeks).



Initiate Administrative License Revocation - The arresting officer DWI Affidavit which comprises the Notice of Revocation. One copy goes to the driver, and one is forwarded to MVD.

DWI Citation Process - The arresting officer completes the DWI Citation. Refer to sub-flow on page 11.

Information Flow - Citation parts delivered to appropriate court and MVD (non-DWI Citation).

DWI Citation Process

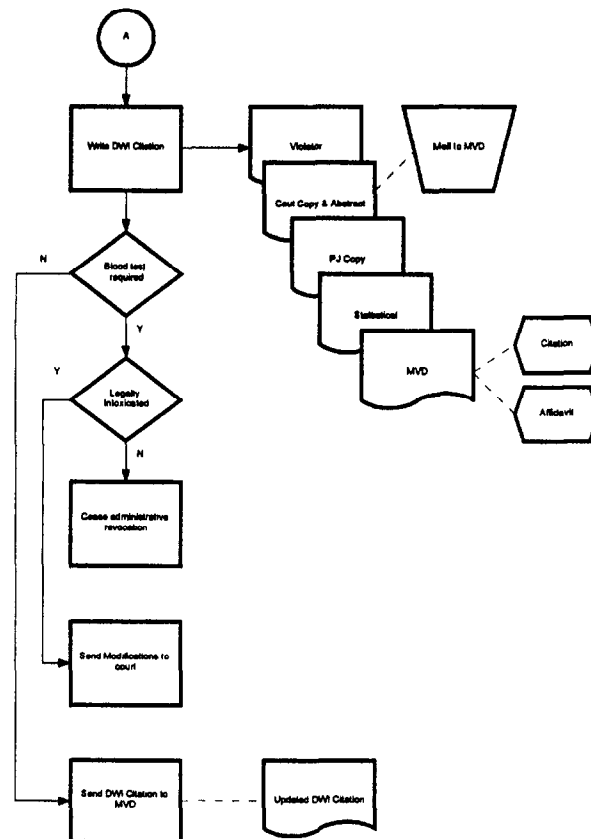
The DWI Citation is the key piece of information used to start both the criminal and administrative actions for DWI. Both the DWI Citation and Notice of Revocation become permanent records on the drivers record.

Write DWI Citation - At booking, the officer fills out the DWI citation and affidavit. One copy is given to the violator, one copy is retained by the officer, and one copy remains at the LEA. The officer sends both copy of the citation and the abstract to the court, and one copy of both the citation and affidavit to MVD.

Blood Test Required - If a blood test is required, the officer must retain the citation until notification of test results is provided by the lab. After the results are obtained, the officer completes the citation and affidavit and forwards them to MVD.

Cease Administrative Revocation - If the driver was not legally intoxicated, the officer stops the administrative license revocation.

Send Modification to the Court - If the driver was legally intoxicated, the arresting officer sends the modified DWI Citation to the courts.



Booking to Arraignment

Write Booking Reports - The police or detention center create a booking report, take the suspects fingerprints if this is not their first DWI, log personal items, incarcerate, etc. Reports go to the court, attorneys, and DPS.

Perform Additional Background Checks (Optional) - As part of the booking process, the arresting officer may check the MVD database to see if the driver has any prior DWI's. They may also check with NCIC to review any felony records. In addition, they may check with other LEAs to see if warrants are outstanding.

File Supplemental Incident Reports (Optional) - The officer may complete crime reports to send to the court or attorneys.

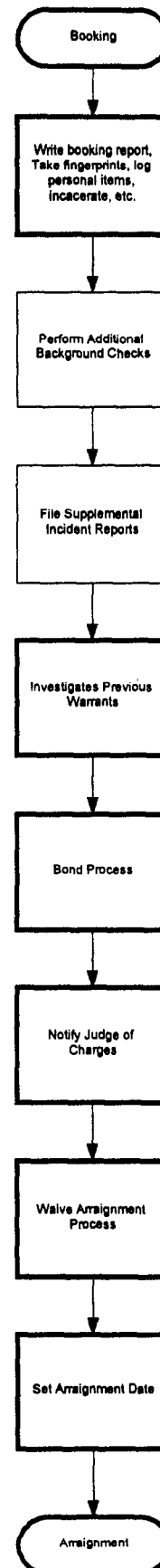
Investigates Previous Warrants - The corrections department investigates to see if the individual has any outstanding warrants.

Bond Process - After the courts set bond, the information is passed onto the LEA and detention center. If the defendant posts bond, they are released and returns for arraignment. If bond cannot be posted, a bond hearing is held at the custody arraignment.

Notify Judge of Charges - The officer or detention center notifies the judge of the pending charges.

Waive Arraignment Process - The defendant may waive arraignment at which time they must enter a plea (guilty, not guilty or nolo contendere). If they plead guilty or nolo, they move into the pre-sentence phase (see page 16), if they plead not-guilty, they move into the pre-trial process (see page 14).

Information Flow - Warrant investigation is dependent on timely information. Currently, the New Mexico Criminal Justice Information System is developing a sophisticated system to track and monitor criminal activity. This will be useful if the offender has moved into the criminal DWI (4 or more DWI citations). The officers or detention centers are currently restricted by the information flow to MVD and the courts, and therefore, may not acquire all previous actions or warrants.



Arraignment to Trial Setting

Arraignment - The defendant goes before the judge to hear the charges against them, and enters a plea. The judge can then release the defendant based on their judgement and applicable laws.

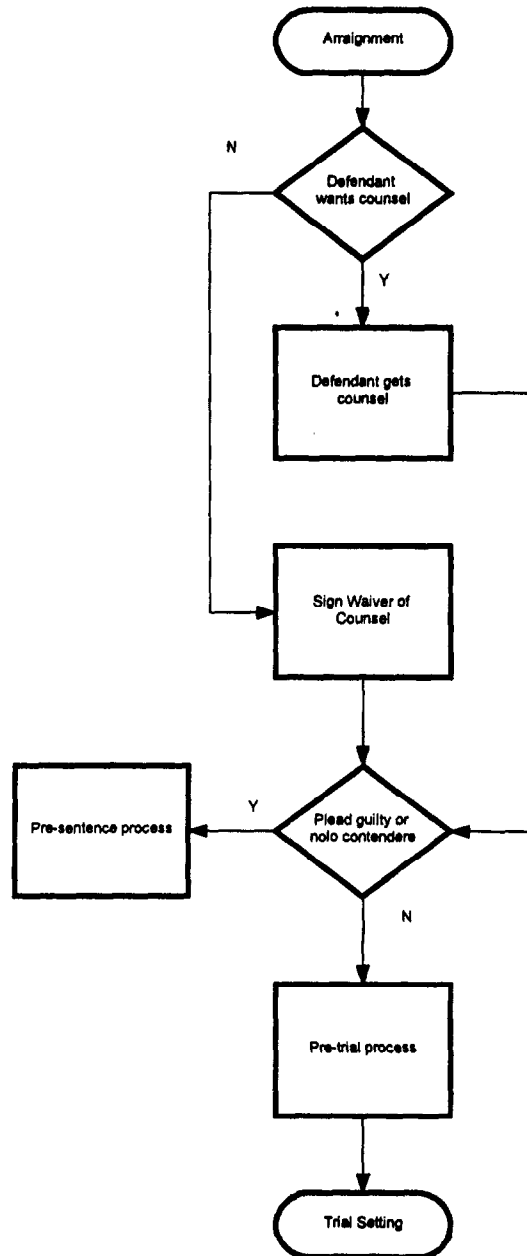
Defendant Wants Counsel - If the defendant does not want counsel, they must sign Waiver of Counsel.

Defendant Gets Counsel - If the defendant wants counsel, they must obtain private counsel or complete an Eligibility Determination for Indigent Defense Service form to qualify for a public defender.

Trial Setting - If the defendant pleads not guilty and has decided to be represented by counsel, the case moves to the trial setting phase.

Information Flow - If the offender waives their right to counsel, a signed waiver must be obtained or any conviction posted as a result of the current infraction could be thrown out based on the invasion of the individuals constitutional rights.

Guilty pleas are subject to the same delays within the court pending the judges decision to send the information to MVD prior to sentencing.



Pre-Trial Process

File Criminal Complaint - After the officer files a criminal complaint with the court, the court clerk establishes a case file that will contain all relevant paperwork to the case. The clerk traces the history of hearings and pleadings, and assigns a docket number. The clerk also schedules the trial.

Issue Notice of Trial - The court clerk sends the notice to the officer, and both attorneys or to the defendant if they are representing themselves.

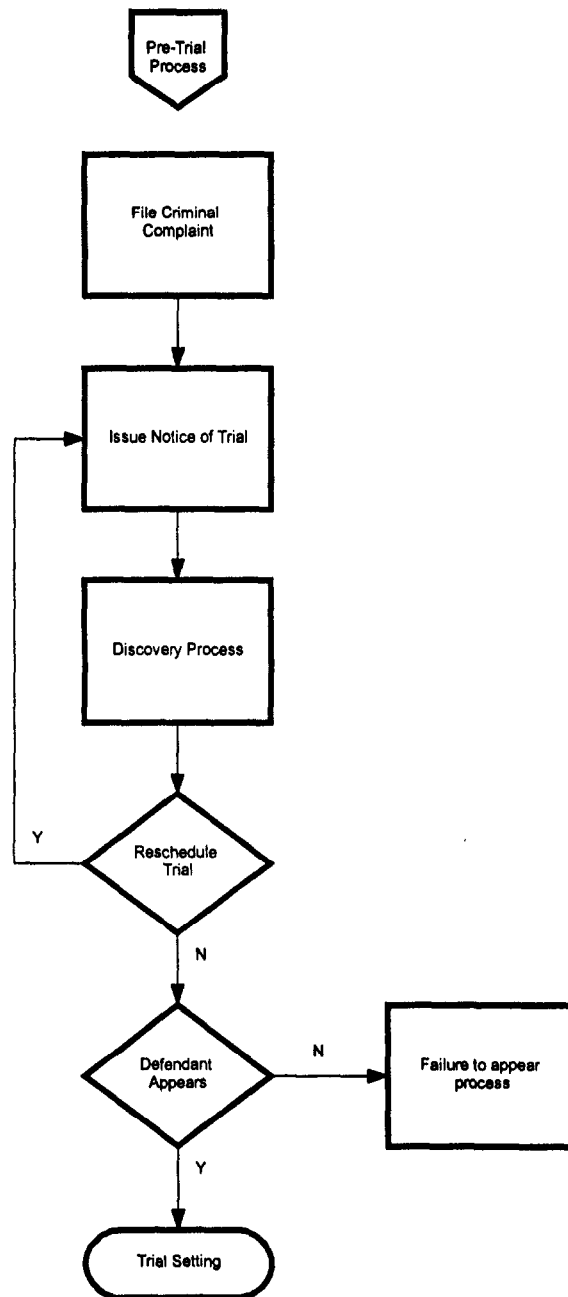
Discovery - Discovery materials may include drivers history file from MVD; criminal record; police reports; and the result of the BAC testing. Discovery material is forwarded to the attorneys.

Reschedule Trial - Trials often need to be rescheduled due to workloads, continuances, or conflicting schedules. If rescheduling occurs, the court clerk sends notice to the arresting officer and attorneys.

Defendant Appears - If the defendant does not appear, the court initiates the failure to appear process.

Failure to Appear Process - The judge may first issue a summons and then a bench warrant ordering the defendant to appear. The court gives a copy of the warrant to the LEA, which is charged with finding the defendant, and sends notice of suspension to MVD.

Information Flow - Trial setting is currently not fully automated at all courts (Metro Court maintains a trial calendar). One of the primary causes of dismissal is failure of the officer to show for trial. According to the Judicial Information System Division, the new tracking system will allow officers to be on-line with courts to set up trial dates.



Anecdotal evidence indicates that the Failure to Appear process does not always work. The automated system should facilitate the FTA process by automatically updating the offenders record.

Trial Setting to Sentence

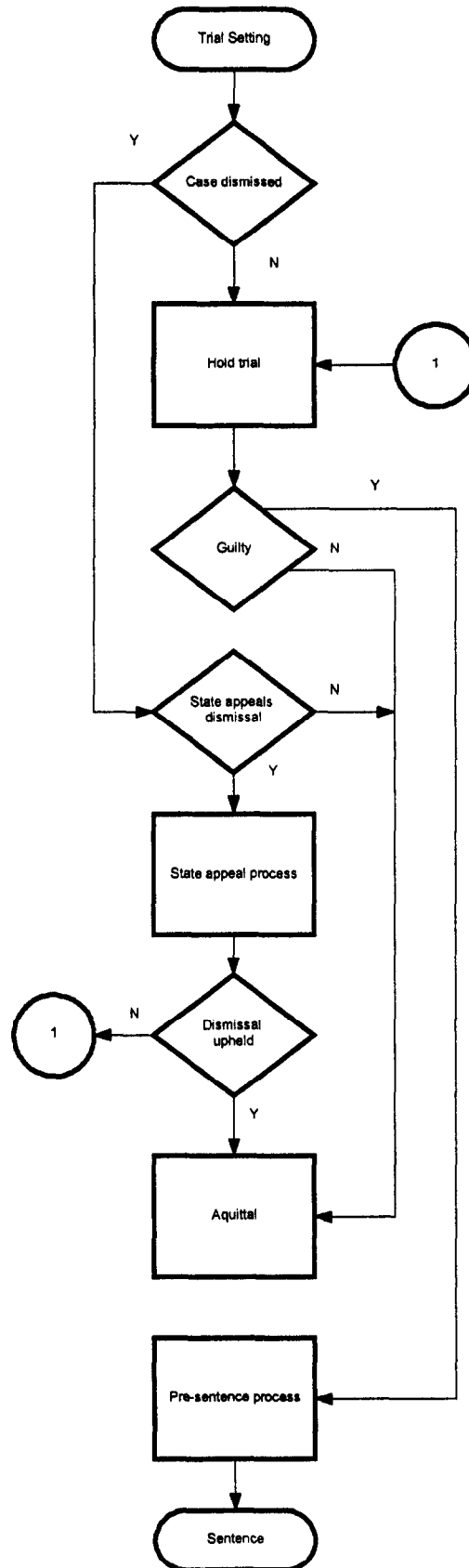
Trial Setting - The trial date is set.

Case Dismissed - The case can be dismissed prior to trial if the officer does not appear for trial - the officer can refile this case. If the judge dismisses the case during the trial due to lack of evidence, the case cannot be refiled. If the case is dismissed, the defendant receives an acquittal, and the Abstract of Record is sent to MVD.

State Appeal Process - If the State decides to appeal the dismissal, they must follow formal proceedings. If the appeal was originated from a court of record, the appellate court hears the appeal. If the appeal was originated from another court, the District Court reviews the case. Following these reviews, if the lower court was found to be in error on certain legal issues, the charges may be reinstated.

Acquittal - The court notes the "not guilty" verdict or the dismissal on the appropriate paper work including the Abstract of Record. The court keeps one copy of the DWI Citation for its own records and sends the other copy to the MVD within 10 days of disposition. The court refunds the bond to whoever posted it. If the defendant is incarcerated, they go free.

Pre-Sentence Process - please refer to page 16.



Pre-Sentence Process

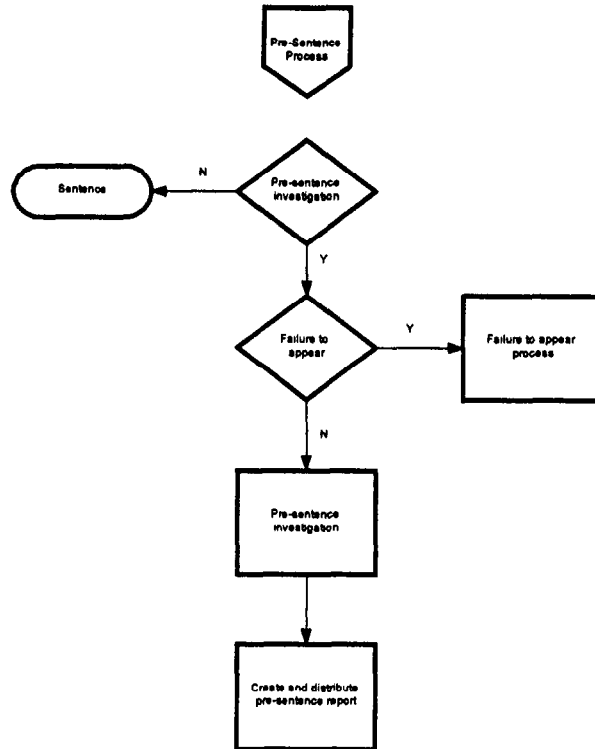
Pre-Sentence Investigation - The judge may determine the need to find out about the defendants background.

Sentence - If the judge does not want the report, sentencing is passed. The judge must have the defendants past driving record.

Failure to Appear - If the defendant does not appear, the court initiates the failure to appear process.

Pre-Sentence Investigation - The court requests information from any or all of the following agencies. MVD, LEA, probation officer, and the corrections department. If this is not the offender's first DWI offense and if this information has not previously been made available in determining the charge against the defendant, the district attorney must assemble proof of prior convictions and present this information to the court. The critical documents for establishing prior convictions include certified copies of the Abstract of Record copy of the DWI Citation; the judgement and sentence from the court; the Waiver of Counsel; and any disposition plea agreement.

Create and Distribute Pre-Sentence Report - The probation officer or court clerk prepares the report after obtaining information from all the available sources. They recommend an appropriate sentence prior to the judges ruling. The judge reviews the recommendation and hands down the sentence.



Sentence to Disposition

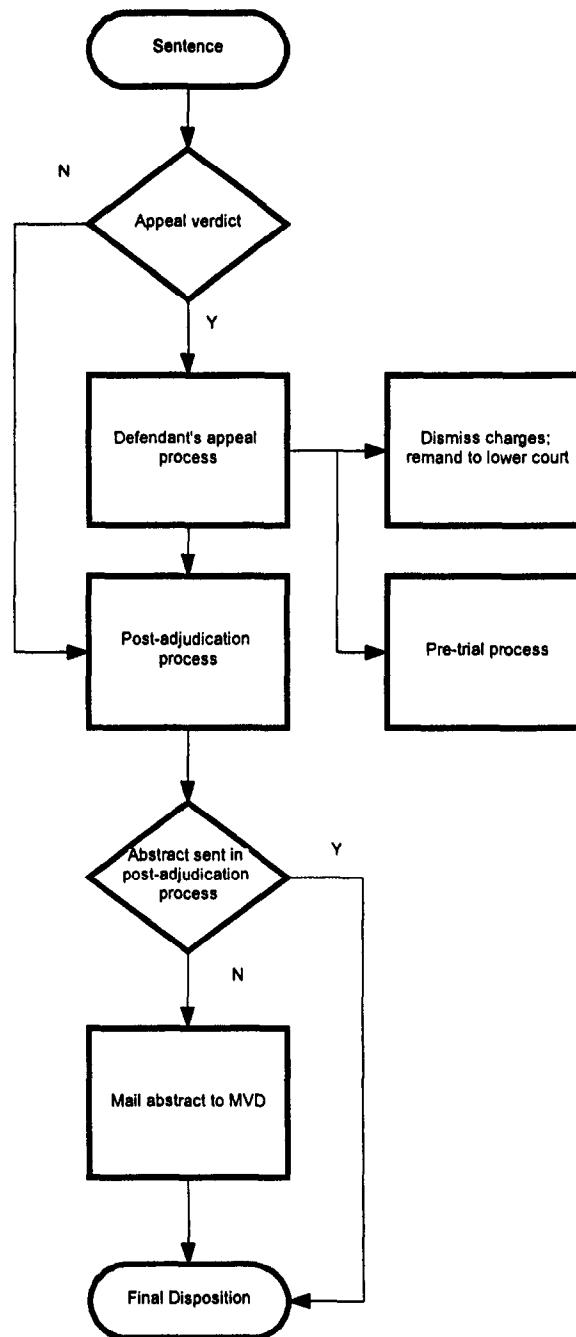
Sentence - The judge informs the defendant of their sentence. Sentences include fines, jail, DWI school, community service, attendance at a victim impact panel, and/or treatment. In addition, the court imposes court costs and fees.

Appeal Verdict - An offender has 15 days from sentencing to appeal the verdict from municipal, magistrate, or Metro Court. The offender has 30 days to appeal a verdict from district court.

Defendants Appeal Process - If the appeal is not from a court of record, the appeal moves directly back to the Pre-Trial process. If the appeal is from a court of record, the defendant files a docketing statement asking the Appellate court to review their case. If the conviction is sustained, the case moves into the post-adjudication process. If the verdict is overturned, the charges are either dropped, or a new trial is requested.

Post-Adjudication Process - please refer to page 18.

Mail Abstracts to MVD - All court abstracts from the DWI Affidavit must be mailed to MVD for data entry.



Post-Adjudication Process

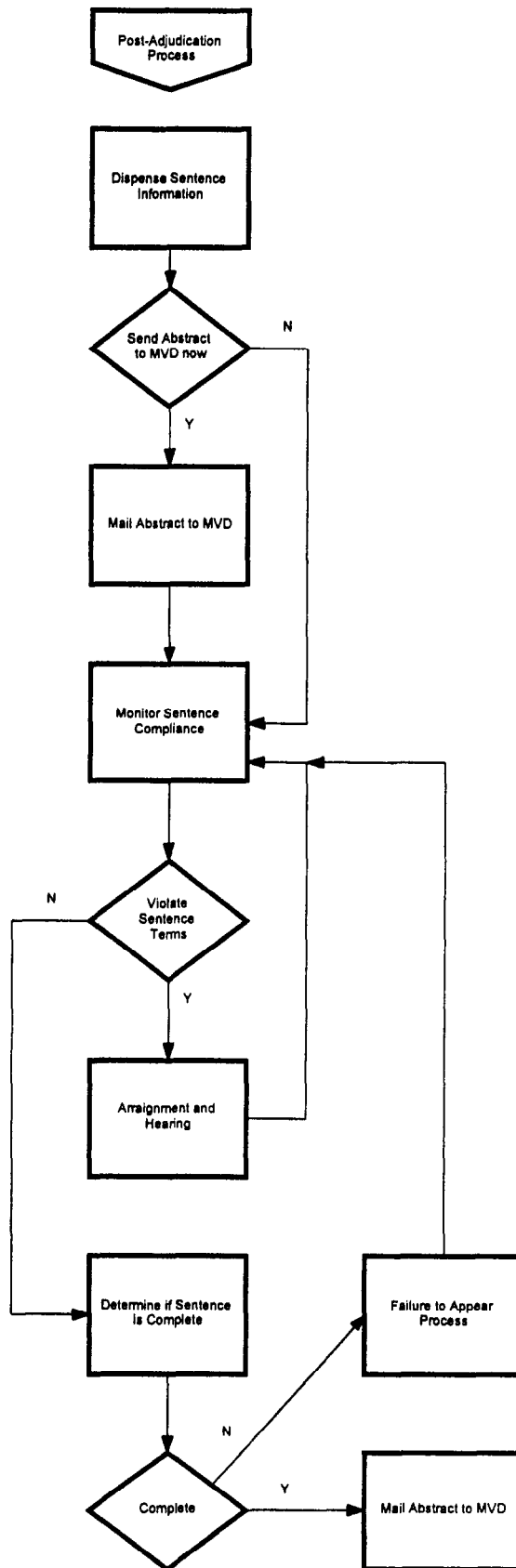
Dispense Sentence Information - Courts inform the appropriate agencies about the terms of the sentence. Fine money information goes to the Administrative Office of the Courts.

Send Abstract to MVD Now - Courts vary on when they send MVD the Abstract of Record. Some courts send it in as soon as the sentence is handed down. Others wait until the sentence is complete and/or fine money is paid.

Monitor Sentence Compliance - Monitoring sentence compliance is a formal duty of the court. Oversight varies dramatically by court. The court or probation officer receives information from agencies about an offender's sentence compliance or violation. DWI Schools send class rosters; jails send information of completed terms; state health facilities say if offenders have appeared for treatment; victim impact panels send attendance rolls; and probation officers inform the court if the offender violates probation.

Arraignment and Hearing - An offender who violates their sentence can be summoned to appear in court.

Determine if Sentence is Complete - The court determines if the sentence is complete. Information is obtained from local probation officers, jails, victim impact panels, corrections, DWI schools, community service programs, alcohol treatment programs, and first offender screening.



Administrative License Revocation

Write DWI Citation - The officer writes the DWI citation as described on page 11.

Fail or Refuse Breath Test - If the driver fails or refuses to take a breath test, the officer completes the Notice of Revocation and hands to driver.

Administer Blood Test - In some cases, the officer will arrange for a blood test to be administered.

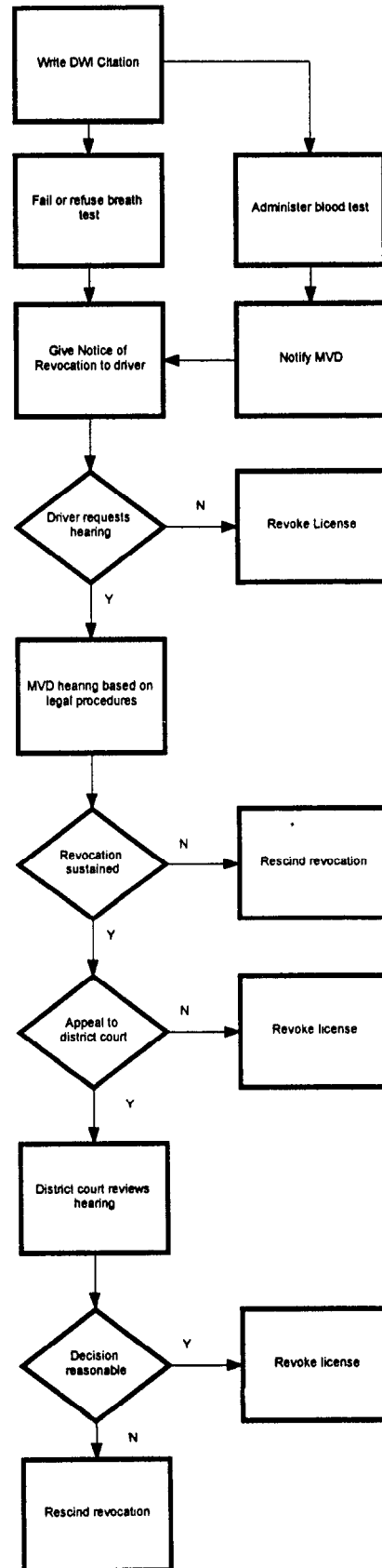
Notify MVD - The officer notifies MVD of the test results.

Give Notice of Revocation to Driver - The officer or MVD gives the driver the Notice of Revocation which goes into effect 20 days after being handed to the driver. The Notice also includes a temporary drivers license, and notice of their right to appeal.

Driver Requests Hearing - The driver has 10 days from the time the Notice was handed to them to appeal the citation in writing. All appeals are handled by MVD within 90 days.

MVD Hearing Based on Legal Procedures - The hearing determines not the guilt or innocence of the driver, but whether the officer and MVD followed the prescribed procedures. The following questions are asked: Were there reasonable grounds to stop the driver? Was the driver arrested? Did the driver refuse to take the breath test after being informed of ALR? Was an approved test administered and were the results above per se?

Appeal to District Court - The driver, at this point, may appeal to district court.



District Court Reviews Hearing - The District Court reviews the administrative revocation, they review the case based on the same grounds as the MVD review.

IV. DWI Tracking System Development Characteristics

System Accessibility

As described above, the DWI Citation Tracking System is a table within the DB2 records system maintained by the Taxation and Revenue Department of MVD. Therefore, MVD has full access to the DB2 system and all of its sub-components. They have full query capability and the ability to provide data or access to other agencies. The Traffic Safety Bureau has access to the system in order to get the necessary data extracts required to complete their reporting and analysis activities.

Access is also provided on a limited basis to law enforcement officers, judges, district attorneys, probation officers, and others who work directly on case level activity. These individuals generally have access to information such as driving records, demographic information, vehicle registration, etc.

System Economics

Data could not be obtained on the cost of developing the DWICTS system. The new citation traffic system currently being developed within the Judicial Information System Division is currently funded at \$5,000,000 for the first year. The money is primarily raised due to a \$3 per ticket fee assessed to all New Mexico traffic citations.

System Completeness and Organizational Barriers

In terms of evaluating the overall completeness of the New Mexico DWICTS, two aspects should be reviewed: 1) the automated data entry and retrieval system; and 2) the system processes needed to obtain all necessary information required to track, monitor, and report state wide DWI activity. The latter should be addressed in terms of designing an automated tracking system. Operational processes that allow law enforcement, courts, detention centers, treatment centers, and others to accurately and consistently obtain, enter, and analyze data must be in place to successfully run or implement a DWI information system.

New Mexico's automated data entry and retrieval system seems to be built following sound principles of system development. The DB2 system came on-line in January 1994. Since the DB2 is a relational database, it allows great flexibility in terms of joining data together from different sources. Complete examination of the system development process at MVD was not performed. CCC can only speculate that the overall data systems are sound.

In terms of the overall system processes occurring in New Mexico, CCC was provided two documents¹ that detailed current problems in the New Mexico system. The major problems that could likely be common in other states were selected for inclusion here. These are:

Administrative Problems

- Lack of standardization of computer systems
 - Lack of standards for interchange
 - No use of national standards (ANSI d.20)
 - Lack of data exchange standards
 - No ability to transmit Abstracts
 - Lack of coordination and standardization of various computerized activities
 - Communication system is inadequate
- Lack of accurate identification of a person
 - No access to a reliable address database
 - Lack of timely dissemination of driver's history to all who need it
 - Fingerprint cards are not required in all jurisdiction, especially first time offenders
- Lack of formal records management program/funding
 - Lack of formal retention program
 - Lack of understanding of roles and procedures regarding records management retention, schedules, duplication, and access
 - Poor system design for records
 - Physical storage of DWI evidence
 - Slow retrieval of records from archive
 - No digital storage of records
 - Redundant information reported and stored
 - Retention schedules are not followed
 - Lack of clarification on what MVD should retain for DWI
- Lack of a DWI Information Pool
 - Lack of connection to other systems (Mexico / Texas)
 - Outside of Albuquerque, no standards for reporting back to courts if sentence is complete
 - No means of tracking out-of-state DWI's

¹

DWI Information Flow: Problems, Solutions, and Strategies. Los Alamos National Laboratory, September 1993; and DWI Citation / Affidavit Paper Flow Study. The University of New Mexico, February 1988.

- Information received varies in completeness, reliability, and timeliness
- No adjudication for "no-shows" at court and/or MVD hearings
- No means of tracking conditional DWI releases
- Lack of Working Group to Exchange Information and Ideas

Law Enforcement Problems

- No standardization of required information and procedures
 - Loopholes that allow suspended drivers to drive
 - Missing paperwork
 - Disposition reporting
 - No sure way to determine 1st DWI offense
- Duplicate paperwork and nonstandard forms
 - Duplicate information on UTC and DWI Citation
 - Improper records and documentation
- Positive identification of suspect
 - No photographs or fingerprints for 1st time offenders or juveniles
 - Inadequate address information
- Lack of standardized data/access
 - Inconsistent use of terms
 - Different systems and procedures by county
 - Inability to access other system's data
- Scheduling of police appearance at hearings
 - Scheduling multiple trials at the same time
 - Scheduling trials on officers day off

Judicial Problems

- Lack of enforcement of judicial order
 - Unable to suspend a driver's license more than once
 - Unable to suspend non-driver's license (individual with no license)
 - License updates are once every four years

- Lack of information about treatment outcomes
- Lack of accurate electronic information
 - Discrepancies in data stored on various systems
 - Charge tracking vs defendant tracking
- Lack of statute that addresses DWI in conjunction with more serious offense
- Lack of standard definition of disposition

Post-Adjudication Problems

- Lack of data processing resources
 - Lack of data processing equipment
 - Lack of communication between systems
 - Minimal data processing infrastructure

In addition to these problems, several short and long-term solutions were noted. In perspective, many of the recommendations and solutions could apply to any state; both those with existing systems and those interested in establishing a tracking system. Therefore, the applicable solutions are presented below:

Short Term Solutions

- Develop a DWI Process and Data Standards Committee - The charter of this group would be to define a more efficient DWI process; set standards for data collection and exchange; and prepare a management plan.
- Make Statutory Changes - Enhance the ability to successfully arrest and prosecute DWI offenders.
- Minimize the number of forms - Streamline the forms process to reduce redundancy.
- DWI Education for Agencies - Educate all agencies about DWI problems and procedures for successful adjudication.
- Training for Law Enforcement Agencies
- Funding for Measuring the Success/Failure of DWI Programs - Develop a means of measuring the success or failure of specific programs.

Long Term Solutions

- **Create a State-wide DWI Information System** - Develop a DWI information system that has all necessary tracking and adjudication features and is accessible by all necessary agencies.
- **Interagency Computer Links.**
- **Change Control** - Implement a standardized process for changing DWI procedures.
- **Scheduling Trials and Hearings** - Develop a computerized system that will schedule and coordinate with both officers, attorneys, and judges. This capability should be offered state-wide.
- **Continually update State statutes.**
- **Enhanced Drivers License** - Implement an enhanced DL with digitized image, magnetic-strip, digitized signature and fingerprints.
- **Enhance LEA Training.**
- **Offender Compliance Tracking System** - Develop a state-wide offender tracking system. Develop better enforcement and monitoring of compliance.
- **State-wide AFIS system** - Implement a statewide Automated Fingerprint Information System.

System Management

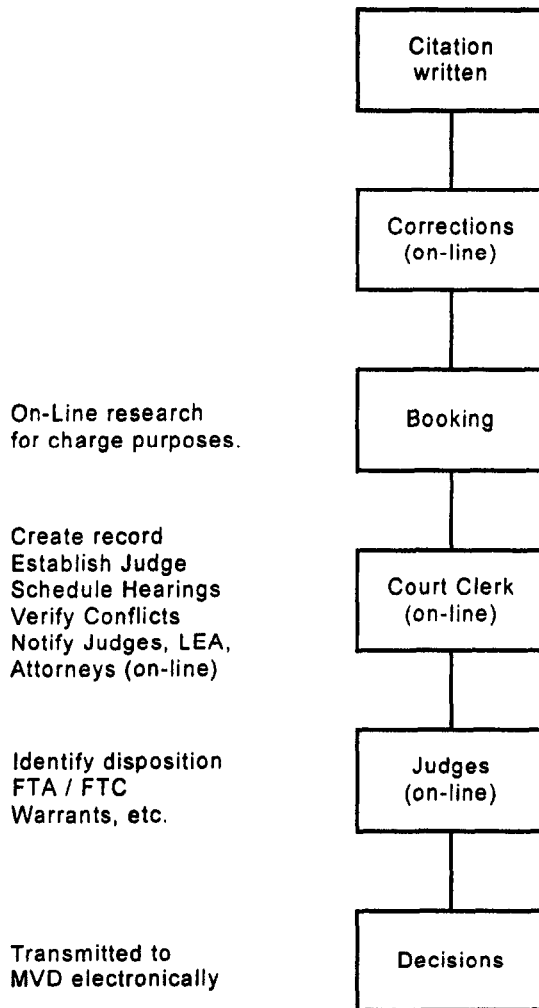
Currently, the DWICTS is managed and owned by the MVD. The new automated system will be owned and operated by the Judicial Information Division which is controlled by the Judicial Information Division Committee. An inter-agency committee has been established to coordinate connectivity and information sharing to all interested agencies. In addition, the committee is reviewing information requirements and suggestions by other agencies and task forces such as the DWI Task Force.

V. FUTURE ENHANCEMENTS

Judicial Information Division - Traffic Citation Tracking System

The Judicial Information Division (JID) is currently developing an automated citation tracking system for each court in New Mexico except Metro Court (which already has their own system). Metro Court will be included in the sharing of information through the inter-agency

development committee. The new system will be based on case management and will have the ability to track an individual offender from arrest through sentencing. A simplified, basic system design is illustrated below.



Department of Health - Division of Epidemiology

The Division of Epidemiology is planning the development of a post-adjudication tracking system. The system will be available to all treatment centers, corrections facilities, and detention centers. The primary purpose will be to gain information on treatment effectiveness, recidivism, and compliance. Revenue is being generated by an additional liquor tax estimated to raise \$16 million dollars. The system is currently funded at \$5 million. Specific details were not available.

I. Legislative Basis

Judicial Sanctions

The New York Vehicle & Traffic law (V&T) provides judicial and administrative sanctions for individuals operating a motor vehicle while impaired by the consumption of alcohol (§ 1192-1), or operating a motor vehicle while in an intoxicated condition (§ 1192-2). Intoxicated condition can be both alcohol related, as well as drug related. New York's illegal *per se* limit for the consumption of alcohol is .10. In addition, a BAC of .05 to .07 is considered *relevant evidence* of being impaired, and a BAC of .07 to .09 is *prima facie* evidence of impairment. The following table summarizes the components of a basic DWI sentence.

BASIC SENTENCE				
DWI CONVICTION	JAIL	FINES & COSTS	LICENSE REVOCATION	OTHER
1ST Misdemeanor §1193(1)(b)	Not more than 1 yr.	\$500 - 1,000 Surcharge \$85 Victim Assistance Fee \$5	Revoke - 6mo min.	Community Service Restitution Fund Alcohol Education & Treatment
2nd & subsequent Felony (w/in 10 yrs) § 1193 (1)(c)	Not more than 4 yrs.	\$1,000 - 5,000 Surcharge \$150 Victim Assistance Fee \$5	Revoke - 1 yr	Community Service Restitution Fund Alcohol Education & Treatment

According to § 1194(1)(b), a preliminary breath test (PBT) may be given in those situations where a driver has been involved in an accident and has committed a traffic law violation. The law does not specifically authorize the use of PBT's in all situations. Refusal to take the PBT may result in both fines and jail time. New York also maintains an Implied Consent law (§ 1194(2)), however an arrest is not required after refusal to submit to chemical testing, and there are no criminal sanctions for refusal. There are however, substantial Administrative sanctions for refusal to take the Implied Consent Chemical test. Tests that are authorized by the Implied Consent law include blood, urine, and saliva.

New York maintains separate penalties for "impairment". Impairment, as described above, is for drivers whose BAC's range from .05 to .09 §1192(1), also known as Driving While Ability Impaired (DWAI). Often first offenders will seek a reduction in charges to the impairment charge. New York does view the reduced "impaired" driving charge as a first time offense. Subsequent DWI's and DWAI's will be applied as multiple offenses. According to the statistical evidence, there are a number of DWI charges reduced to DWAI each year.

DWI Offenses and Commercial Motor Vehicles (CMV)

CMV operators face a one year revocation if they operate a CMV with a BAC level greater than .04, violate any provision of § 1192, or refuse to submit to a chemical test for alcohol or drugs. The revocation is increased to three years if the driver is transporting hazardous material. For the second violation, or a combination of any two items listed above, the driver faces a mandatory 10 year disqualification of commercial driving privileges.

A CMV driver commits an "infraction" if they operate a CMV with a BAC of .04 to .07. The sanctions for this infraction are the same as for impaired driving. A CMV driver commits a misdemeanor if they operate a CMV with a BAC level at .07 but less than .10. The misdemeanor charge carries a maximum of one year in jail, and fines of \$500 to \$1,500. A CMV driver commits a felony if they are convicted of a misdemeanor offense and have within five years been convicted two or more times of a misdemeanor DWI offense. A felony charge is also carried if the driver is convicted two or more times within 10 years of operating a CMV in violation of the regular provisions of the DWI laws.

Administrative Actions

The New York V&T code maintains a form of administrative license revocation for DWI offenders. Administrative license revocation in New York is conducted in court during arraignment. Law enforcement agencies do not have the right to confiscate a drivers license at the time of arrest. Therefore, at arraignment, the court may administratively revoke the individuals license for a period of at least 6 months for the first offense (1 year if under 21), or 1 year for a 2nd or subsequent offense within 5 years if the offender has a BAC reading of .1 or greater or refuses to submit to chemical testing. After revocation, DMV is notified of the action and updates the drivers record to reflect the revocation.

II. System Stakeholders

TSLED / DMV

New York's DWI tracking system for the state is the Traffic Safety Law Enforcement and Disposition (TSLED) system. TSLED is "owned and managed" by the Department of Motor Vehicles (DMV). The primary purpose of TSLED is to track **all traffic citations**¹, but priority is given to DWI due to its severity. TSLED was created as a result of legislation (§207 of the V&T code) in the late 1970's. During this time period, TSLED was considered a pilot program and was abandoned during the early 1980's. Funding was again reinstated during the mid 1980's and the program has continued to operate successfully and grow vigorously. Recently, DMV accepted complete control over the operations of the program. DMV's primary responsibilities include ticket purchases and design, ticket inventory, arrest and disposition data entry, suspension and revocation data entry, communication, and training. In all, TSLED employs about 75 people. Funding is provided via the state's general fund. No fees or fine money is used to support TSLED.

TSLED serves as the state's primary repository of traffic citation, violation, and disposition information. Monthly reports are provided to law enforcement agencies, courts, and other special programs. These reports address arrest and adjudication statistics prepared on an individual agency basis. Section III discusses the operational and design aspects of TSLED.

In addition, TSLED issues and tracks citation ticket stock for each agency. Agencies receive reports each month indicating which tickets have been used, which tickets remain in inventory, and which tickets have been skipped. TSLED also conducts follow up with each Law Enforcement Agency (LEA) to gather BAC information. When BACs are missing from the TSLED data, a missing BAC report is sent to the LEA and the appropriate BAC is provided to DMV for entry into the data system. This helps DMV maintain a high level of BAC responses for the data system.

Law Enforcement Agencies (LEA)

All LEAs in the state of New York participate in the TSLED program (excepting New York City and Suffolk county). §207 of the V&T code mandates that all LEAs use a prescribed ticket designed and implemented by the Commissioner of Motor Vehicles. In addition, the legislation mandates LEAs to follow the rules and operations of the TSLED program.

There are three primary advantages to the LEAs for utilizing the TSLED services. First, TSLED

¹

New York City and Suffolk county do not participate. In addition, no action is received from these jurisdictions until conviction. Therefore, arrests on the TSLED file will be understated and will not represent New York state in its entirety.

provides monthly reports to each LEA on an individual basis. These reports enumerate the number of arrests by ticket type, and the resulting disposition. LEAs use the reports to track ticket trends and allocate resources based on these trends. Second, the LEAs use the reports for reporting to other agencies. Third, TSLED provides the LEAs a mechanism for entering ticket information. There are 20 data entry sites spread across New York for the initial entry of ticket information.

Courts

There are approximately 1,400 courts currently on the TSLED system throughout New York. Three types of courts adjudicate traffic citations. These include:

- District court;
- City courts; and
- Town & Village courts.

The District Court and each of the City courts are operated by the Office of Court Administrators. The Town & Village courts report fines to the State Comptrollers office. The same legislation that applies to the LEAs mandating use of the TSLED system also applies to each of the courts.

Participating courts receive monthly reports from TSLED. These reports identify the number of cases adjudicated by case type, the resulting disposition of each case, current status of each case, and if the case has been unanswered for 60 days or more. If a case has gone unanswered for 60 or more days, DMV will notify the court and the court will decide if the offenders license should be suspended/revoked. If suspension/revocation is deemed appropriate, the court will notify TSLED and the appropriate data entry will occur. TSLED plays a crucial role in the identification and action of license suspension/revocation.

The Bureau of Justice Court Fund has been established to reward local administrations for expeditious adjudication of traffic offenses. In the case of a DWI or DWAI, all fine money flows back to the county where the DWI was adjudicated (see STOP-DWI below). In addition, if the court processes DWI orders / dispositions within 96 hours of a decision, the court is reimbursed their expenses. This provides additional incentive for the courts to quickly and efficiently expedite DWI cases.

STOP-DWI

The success of the plea bargaining restriction law and the reinforcement of the "implied consent" and "per se" laws in 1980 encouraged the Legislature to continue its course by formulating a mandatory minimum fine schedule and by providing the resource to allows expanded efforts at

addressing the drunk driving issue. The STOP-DWI (Special Traffic Options Programs for Driving While Intoxicated) Law, established in 1981, has successfully embodied both concepts.

The STOP-DWI law mandated that judges impose substantial minimum fines against convicted drunk drivers. It increased penalties from a maximum of \$50 for a first time conviction for DWAI to a mandatory fine of \$250. Those offenders convicted of DWI faced a minimum fine of \$350 and a maximum fine of \$500. Correspondingly higher minimum and maximum fines for repeat DWI and DWAI offenders were also instituted. This is in sharp contrast to the average \$11 fine collected from convicted drunk drivers in 1979.

Many states reacted to public pressure to deal with drunk drivers by establishing mandatory jail sentences for first offenders and portrayed this legislative initiative as a panacea for the drunk driving problem. The resulting media coverage created a momentary reaction, by, in the absence of a broader approach and a consistent imprisonment policy, the success of these efforts was fleeting. New York, on the other hand, continued its efforts to develop a comprehensive, integrated formula designed to address the entire scope of this multi-faceted problem. Thus, after STOP-DWI, the state had in place a significant fine structure, the possibility of jail, and, perhaps the most important deterrent to the average motorist, a guaranteed loss or severe limitation of license privileges. For even the most casual of drinkers, the price of an arrest and conviction was prohibitive. The combination of the mandatory fines, attorney fees and the assured assignment to the high risk insurance pool made it readily apparent to the average motorist that if caught they would be punished and that punishment would create a significant hardship.

The most innovative feature of the STOP-DWI program, however, is the use of fine monies.

The law provides that when counties establish plans, that are approved by the State Department of Motor Vehicles, to combat drunk driving through any combination of increased enforcement, prosecution, adjudication, education, rehabilitation, and public information they shall receive the money derived in that county from the new fines for the implementation and maintenance of those plans. More than \$22 million is currently distributed annually to the counties of the State and the City of New York for STOP-DWI programs. In contrast, a mere \$451,000 was collected for DWI in 1979.

The local option approach for DWI enforcement efforts has proven to be effective. By allowing counties to identify their own needs and responses, STOP-DWI is sufficiently flexible to permit localities to experiment with a variety of appropriate remedies. The counties have established an efficient infrastructure for the arrest, prosecution and conviction of drunk drivers and are now turning to creative and often daring endeavors aimed at prevention and rehabilitation. Cooperation between and among bordering counties has further reinforced the underlying strength of the local option program.

III. System Description

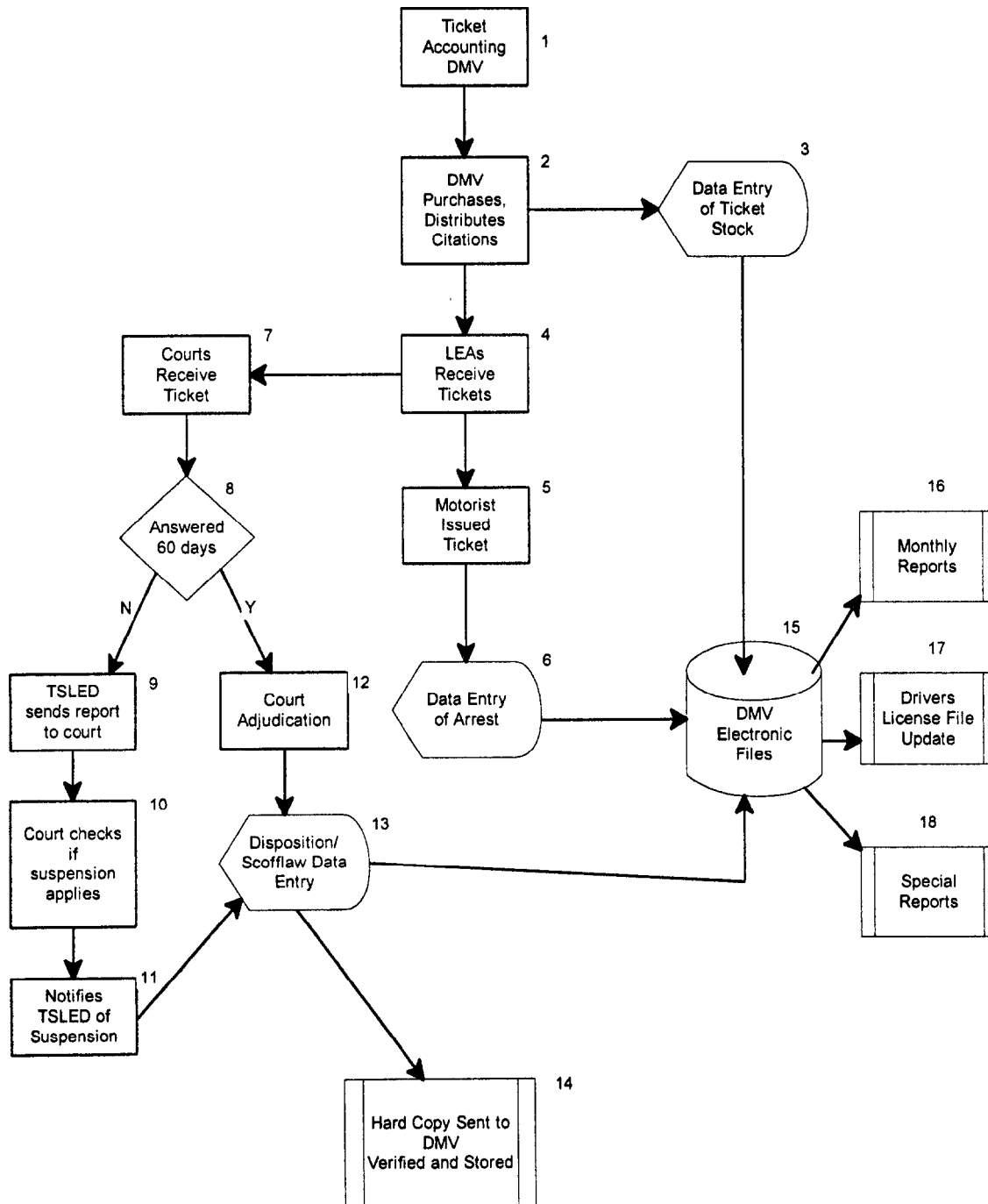
The TSLED system was designed to capture specific information about traffic citations and dispositions, and track pending cases. As in other statistical systems (systems designed to provide statistical data), TSLED dispenses necessary reports to its stakeholders, allowing them to efficiently utilize resources, and identify pending cases (via monthly reports). The TSLED system however, takes the statistical system design one step further by adding interaction with the DMV driver license file. Whenever a traffic violation is recorded (either the arrest or disposition), the TSLED system updates DMV's driver license file. In addition, the TSLED system monitors court level action and provides information to each court regarding delinquent citations. While the TSLED system does provide one level of interaction, it is not a case management system due to its disconnection with its stakeholders. A case management system allows interaction at all stakeholder levels, where TSLED limits interaction to its data entry staff and only for historical actions. In other words, TSLED is dependent on the actions and processes of other stakeholders for its information, rather than the system itself driving the information development.

Stakeholders, primarily the law enforcement agencies and the courts, provide information to TSLED, and TSLED enters the data into the system. The TSLED system has two primary operations; (1) arrest record development, and (2) disposition recording. The first step in the TSLED system is the entry of arrest information. After an arrest, a copy of the citation is provided to a TSLED data entry site. Information is keyed into the system directly from the citation. TSLED is not used by the court system for identifying or tracking case status on an interim basis. Following the arrest entry, TSLED awaits input from the courts regarding the disposition of each case. After receiving information from the courts, TSLED again inputs information directly from the disposition paperwork.

A case management system may not be economical given the size of the New York traffic offense case load and the number of stakeholders dispersed across the state. The TSLED system design meets the needs of its users at reasonable operational cost. While some system modifications could enhance performance, developing a full case management system for a state the size of New York would require extensive resources, coordination, and time. The TSLED system is further described below.

III.A. Operational Process

Figure 1 provides an illustration of how the TSLED system operates. Each process has been numbered and is discussed below.



Process 1 - 4 - TSLED and DMV are responsible for designing, purchasing, and controlling the ticket stock issued to the various New York law enforcement agencies. Ticket stocks are accounted for and inventoried by law enforcement agency. This provides strict control over each ticket printed

within the state, ensuring DMV an accurate account of each ticket regardless of ticket circumstances. All tickets are entered into the TSLED system for use in matching tickets once they have been issued by a LEA. TSLED identifies each ticket that is delivered to a LEA by its ticket number. As tickets are written and entered into the system, they are matched with the ticket inventory data. Monthly reports are provided to each LEA identifying each ticket written, tickets not written, and tickets that have been skipped. DMV sends each LEA ticket stock based on quantity demanded.

Process 5 - After an officer stops a driver for a traffic offense, they will issue the offender a citation. The New York citation is divided into five parts (see Attachment 1):

- Court copies (2);
- LEA copy;
- TSLED copy; and
- Offender copy.

The same citation is used whether the offense is a minor traffic infraction or DWI. For a DWI arrest, the officer will ask the offender to perform the basic Standardized Field Sobriety Tests and may require Preliminary Breath Test. The New York V&T law requires LEAs to use a PBT if the driver has been involved in an accident and has committed a traffic offense. The offender receives their copy of the citation, and may be detained based on the DWI charge. If the offenders BAC is greater than or equal to .1, the offender, in most cases, will be arraigned within the first 48 hours, and will lose driving privileges. Licenses are removed only after arraignment, not by the law enforcement officer. Following a traffic stop, the citation copies are sent mailed or given to each of the groups listed above. The ticket indicates if the offender must appear in court, and provides the appropriate date and time of the hearing.

Process 6 - One copy of the New York citation is sent to the TSLED data entry site. For arrest entry, TSLED maintains 20 data entry sites around the state. This allows the officers to quickly provide the citation to the data entry personnel. The average time between the DWI arrest and data entry is about 2 days. As a result of the arrest data entry, an arrest record (data record) is developed on the TSLED system. This record contains the necessary identifiers to match it with its ultimate disposition. After the data entry is complete, the record is transmitted to the TSLED system.

Process 7 - Two of the citation's copies are sent to the court. Upon action by the court, the court clerk will complete the disposition information on the ticket and provide one of the copies to TSLED for data entry.

Process 8 - 11 - If the ticket remains unanswered for 60 or more days (i.e., Failure to Appear), TSLED will automatically generate a report for the court identifying the offender, ticket number, and offense. The court will review the report and place a check mark by each offender they wish to pursue license suspension. The report is sent back to TSLED where the suspension information is entered and updated on the DMV driving record.

Process 12 - If the offender appears before the court, the resulting disposition is sent to the TSLED data entry site.

Process 13 and 14 - TSLED maintains four data entry sites for disposition data entry. The court dispositions are sent to TSLED where they are matched with the appropriate arrest record and the disposition is entered. The TSLED system has spaces for three convictions on its record. Hard copy disposition information is sent to DMV where verification is performed on the data entry.

Process 15 - 18 - All information is delivered to the DMV electronic files. Monthly reports are provided to each of the system stakeholders. These reports include information on arrests, convictions, dismissals, fines, and other penalty information.

III.B. Education, Treatment, and Rehabilitation

New York state law and regulation provide for permissive or mandatory education, evaluation, and, where necessary, treatment for motorists who have been convicted of an alcohol offense. Section 1196 of the V&T law establishes the New York State Alcohol and Drug Rehabilitation Program, commonly called the Drinker Driver Program (DDP). Attendance at the DDP is normally restricted to first offenders who meet eligibility criteria established by law and regulation. Attendance is voluntary, but the court may require the convicted motorist to complete the training. The DDP consists of education, screening, and, where warranted, evaluation / treatment for participants who are diagnosed as having a substance abuse problem. Most attendees will be issued a conditional license which allows for high priority driving during the license suspension or revocation period.

Approximately ½ of eligible motorists enroll in the DDP. In 1994, approximately 19,000 people enrolled, of which 7,800 or 40% were referred for a comprehensive substance abuse evaluation. A little under ⅓ of the classroom population, or 6,000 people, were required to complete a formal treatment program. All elements of the DDP, including evaluation and/or treatment must be successfully completed to maintain the conditional license. Any default in DDP activity results in reimposition of the original license suspension or revocation order.

Multiple alcohol offenders normally cannot be issued conditional licenses in exchange for attendance in treatment programs. Normally the offender with two or more alcohol convictions of record must serve a revocation period, without a license. At the time of relicensing, the applicant must obtain evidence of "rehabilitative effort" from a New York State licensed or certified evaluation / treatment provider. This usually means the applicant must obtain a comprehensive substance abuse evaluation and complete a formal outpatient treatment program if it is required, before DMV will consider issuing a new license.

According to DMV staff, all screening forms, assessments, and rehabilitation information are not computerized, and, as a result, they are not statistically tracked. DMV does maintain statistics on the number of drivers who enroll in the DDP, and who are referred for evaluation / treatment services and who are issued conditional licenses.

IV. Data Elements Gathered by TSLED

The following data elements are collected by the TSLED system:

- Ticket Number
- NCIC
- Post Date
- Arraignment Date
- Date of Birth
- Sex
- Address
- License Plate
- Vehicle Type
- Arrest Date & Time
- Highway Information (Type, route number)
- Type of Law broken
- Arrest type
- Court code & appearance date
- Badge number & officer name
- DWI test result
- Disposition code
- Disposed date
- Custody information
- Fine amount
- Suspension/Revocation
- Sentencing code

- Sentencing date
- Trail information
- Bail date & fine
- Disposition Drug & Alcohol test
- Surcharge

V. Organizational Barriers

Developing a DWI tracking system and gaining the support and coordination of all the pivotal stakeholders requires overcoming numerous organizational barriers. For an agency to willingly participate in a program such as the DWI tracking system program, there needs to be either legislation mandating their participation, or measurable benefits to the stakeholder resulting from the system development. Either alternative, stakeholder needs must be an integral part of the planning vision.

According to anecdotal evidence provided to Capital Consulting Corporation by the DMV staff, one of the key ingredients contributing to the success of New York's system was *understanding the stakeholder needs, and getting each agency / stakeholder "on board" with the DWI tracking system concept*. All of the court magistrates were provided the opportunity to contribute input into the planning process, such as overcoming any privacy issues that may have resulted. In addition, DMV enlisted the help of several stakeholder agencies in the design of their traffic citation. New York law requires the agencies to use a citation specified by the Commissioner of Motor Vehicles, therefore, DMV provided these agencies to assist in its design.

The New York tracking system also provides a service to the stakeholder agencies in terms of report generation, and fine money processing. As mentioned above, all fine monies associated with the arrest and conviction of DWI's flows back to the local community (STOP DWI programs). These monies are used to develop effective programs aimed at reducing the drinking driver problem.

Legislation was also passed requiring the use of the TSLED system. Passing the legislation was made somewhat easier due to the efficient work of the TSLED developers in ensuring the stakeholders would share equally in the development of the system, and that New York state as a whole would see great benefit in its development.

I. LEGISLATIVE BASIS

The Utah Code specifies both judicial and administrative actions to be taken for DUI arrests. Section 41-6-44 (driving under the influence of alcohol or drugs) and Section 53-3-223 (chemical tests) of the Code covers: driving under the influence of alcohol, drugs, or with specified or unsafe blood alcohol concentration; measurement of blood or breath alcohol; criminal punishment; arrest without warrant; penalties; suspension or revocation of license; chemical tests; temporary licenses; hearings and decisions; suspension and fees; and judicial review and penalties.

The Code establishes a breath alcohol concentration (BrAC) of .08 or greater as the threshold for administrative *per se* for DUI in the state of Utah. Administrative license sanctions are allowed if drivers are tested for BrAC .08 or greater, or if "impaired." Law enforcement officers can arrest drivers for illegal *per se* of .08 or greater or if the driver is believed to be impaired by the influence of alcohol and/or drug.

Underage Drivers = Not a Drop Law

Utah legislation also includes the law commonly referred to as the "Not A Drop" law for underage drivers (under 21). Underage drivers with a measurable BrAC (.001 or greater), but not within illegal *per se*, are handled administratively. An underage driver must go to substance abuse facilities, where upon completion of treatment, the first offense is cleared from the minor's driver record (appears as Code "22") and his or her license is reinstated. Counts for "Not A Drop" violations are not considered DUI violations, but underage drivers (16 and older) who are arrested for DUI are included in the state DUI statistics.

Commercial Motor Vehicle (CMV) Operators

Commercial motor vehicle (CMV) operators are subject to a lower BrAC limit. CMV operators having breath alcohol concentrations that measure .04 or greater; are under the influence of either alcohol, drugs, or a controlled substance; or refuse to submit to chemical test for alcohol can be disqualified from operating a CMV for one year (mandatory), or three years (mandatory) if transporting hazardous materials². Subsequent violations (or violations of two or more first-time offenses) are punishable by disqualification for life (10 years mandatory).

² §53-3-418: Refusal only applies to alcohol not drugs.

I.A. Judicial Sanctions

Summary of Judicial Sanctions for DUI in the State of Utah Not all sanctions are included in this table, see text for more detailed descriptions.				
Utah Code: §§ 41-6-44, 53-3-223		Per Se: BAC .08; Underage, BAC .001; CVO, BAC .04		
DUI CONVICTION	FINES / FEES*	JAIL (Mandatory time must be consecutively served)	COMMUNITY SERVICE & Alternative Sanctions	TREATMENT
1ST Class B Misdemeanor (Class A Misdemeanor w/ injury)	Class B: Not more than \$1,000	48 hrs to 240 hrs	In lieu of Jail: 24 to 50 hrs comm. service	Assessment & DUI Education (Mandatory)
2ND- WITHIN 6 YRS Class B Misdemeanor (Class A Misdemeanor w/ injury)	Class B: Not more than \$1,000	240 to 720 hrs	In lieu of Jail: 80 to 240 hrs comm. service	Assessment & DUI Education/Treatment
3RD- WITHIN 6 YRS Class A Misdemeanor*	\$1,000 - \$2,500	720 to 2,160 hrs	In lieu of Jail: 240 to 720 hrs comm. service	Intensive Rehabilitation Treatment (Mandatory)*; Can Be in Lieu of Jail
4TH or MORE* 3rd Degree Felony*	\$1,000 - \$5,000	720 to 2,160 hrs	--	Intensive Rehabilitation Treatment (Mandatory)*; Can Be in Lieu of Jail
DUI HOMICIDE 3rd Degree Felony - "Simple" Negligent 2nd Degree Felony - "Criminal" Negligent	3rd Degree: Not more than \$5,000 2nd Degree: Not more than \$10,000	3rd Degree: Not more than 5 years 2nd Degree: 1 to 15 years	--	--
NOTES: *If prior convictions are for violations committed after April 23, 1990.				

► A person may not operate or be in control of a vehicle with a **blood alcohol concentration** (BAC) of .08 or greater (based upon 100 milliliters of blood or breath concentration based upon 210 liters of breath) as shown by chemical test within two hours of the alleged incident. Results of breath alcohol concentration (BrAC) tests conducted by police are admissible in court.

► A first or second time violation is a Class B misdemeanor; it is a Class A misdemeanor if the person inflicts bodily injury on another as a proximate result of having operated the vehicle in a negligent manner.

► As part of sentencing, the court, upon **first conviction**, shall impose a mandatory jail sentence of not less than 48 consecutive hours nor more than 240 hours, or require community-service of not less than 24 hours nor more than 50 hours.

► In addition to the above, for the first conviction, the court shall order the person to participate in an assessment, and then participate in an educational series at a state-licensed

rehabilitation facility if the facility determines that the person has a problem condition involving alcohol.

- ▶ Upon a **second conviction** within six (6) years, the court shall impose a mandatory jail sentence of not less than 240 consecutive hours nor more than 720 hours. As an alternative to jail, the court may require community service work for not less than 80 hours nor more than 240 hours.

- ▶ In addition to the above, for the second conviction, the court shall order the person to participate in an assessment, and then participate in an educational series at a state-licensed rehabilitation facility.

- ▶ A third violation is a class A misdemeanor. For the **third conviction**, within six (6) years, the court shall impose a mandatory jail sentence of not less than 720 nor more than 2,160 hours. As an alternative the court can require community service work of not less than 240 hours or more than 720 hours.

- ▶ In addition to the above, for the third conviction the court shall order the person to obtain treatment at an alcohol or drug dependency rehabilitation facility.

- ▶ For third violations committed after April 23, 1990, the court shall impose a fine of not less than \$1,000 and a mandatory jail sentence of not less than 720 hours nor more than 2,160 hours. It may, however, as an alternative to jail, require participation in a rehabilitation program if the program provides intensive care or inpatient treatment and long-term, closely supervised follow through after the treatment.

- ▶ A **fourth or subsequent conviction** is considered a third degree felony if at least three prior convictions are for violations which were committed after April 23, 1990.

- ▶ For four or more convictions the court shall, as part of any sentence, impose a fine of not less than \$1,000 and impose a mandatory jail sentence of not less than 720 hours nor more than 2,160 hours. It may, however, as an alternative to jail, require participation in a rehabilitation program if the program provides intensive care or inpatient treatment and long-term, closely supervised follow through after the treatment. Mandatory portions of any sentence required must be served prior to eligibility for parole or probation.

- ▶ **Homicide by vehicle** is considered a 3rd degree felony if death is caused by operating a motor vehicle in a negligent manner while DUI or with a BAC of .08 or greater ("simple" negligent homicide). It is a 2nd degree felony if death is caused by operating a motor vehicle in a criminally negligent manner ("criminal" negligent homicide) while DUI or with a BAC of .08 or greater. Third degree felony DUI carries a fine of no more than \$5,000 and a jail term of no more than five years. Second degree felony DUI carries a fine of no more than \$10,000 and a jail term of one to 10 years.

- ▶ DUIs may be reduced to “**alcohol-related reckless**” driving (Code RK5). In Judicial courts, RK5 convictions, which appear on driver records, *do* count as one DUI conviction when considering sentencing for repeat convictions. All pleas in substitution for DUI must be made on record whether alcohol or drugs were involved.
- ▶ The state of Utah authorizes courts to require the implementation of alternative devices in vehicles driven by defendants convicted of DUI.
- ▶ Under §62A-8-302, the court is required to impose, in addition to mandatory fines, a special fine of between \$50 to \$200 for first offenders and \$1,000 for second and subsequent offenders. This special fine is for the purpose of funding alcohol education and treatment programs under §62A-8-303. Defendants are also required to pay a surcharge (25%) on all fines and a fee of \$100 into a Crime Victim’s Reparations Trust Fund (§63-63a).³

I.B. Administrative Actions

- ▶ Utah’s **Administrative License Sanctions (ALS)** law allows the Department of Public Safety, through its Driver License Division (DLD), to suspend for 90 days the operator’s license for a first time arrest and to suspend the license for one year for subsequent arrests. At the time of arrest, the officer provides a 29-day driving permit in exchange for the surrender of a Utah license. The driver has 10 days to request an **administrative hearing** in writing.
- ▶ Utah’s **Implied Consent Law** specifies the first refusal to take a sobriety test results in a one-year license revocation, and for a second or subsequent alcohol violation (after July 1, 1993), a refusal results in an 18-month license revocation.
- ▶ The arresting officer must sign and submit the **DUI Summons and Citation** (with DUI Report) to the Driver License Division within five days. If requested, a hearing must be held within 29 days from date of arrest in the county of arrest unless otherwise agreed upon. Administrative error or delay can be cause for administrative dismissal and DLD will reinstate the license with “no action.”
- ▶ DLD may not reinstate any license suspended or revoked as a result of a court conviction for a violation committed after July 1, 1993 until the person has furnished evidence satisfactory to the department that all required alcohol or drug dependency assessment, education, treatment, and rehabilitation ordered by the court have been completed. If the conviction is a second or subsequent conviction for a violation committed with six years of a prior violation, the department must have evidence, prior to relicensing, that all fines and fees including fees for restitution and rehabilitation costs assessed against the person have

³ “Digest of State Alcohol-Highway Safety Related Legislation, Twelfth Edition.” U.S. Department of Transportation, National Highway Traffic Safety Administration, 1994. p. 3-465.

been paid. If the conviction is for a third or subsequent conviction for a violation committed within six years of two prior violations committed after July 1, 1993, the department must have evidence, prior to relicensing, that the person does not use drugs in any abusive or illegal manner as certified by a licensed alcohol or drug dependency rehabilitation facility.

► DLD *does not* count RK5 (alcohol-related reckless) convictions as DUI convictions when considering revocation or other penalties for repeat offenses. DLD does recognize RK5 convictions as a separate basis for determining license suspension. For example: two RK5 convictions in one year will result in a one-year suspension. On the other hand, since DLD considers the two convictions differently, one RK5 and one DUI conviction within one year is regarded as one DUI conviction carrying a 90-day suspension. The difference is illustrated further: whereas driver records accessible by DLD will show the RK5 code (as a traffic violation), BCI criminal records will not show the non-DUI, non-criminal conviction.

II. SYSTEM STAKEHOLDERS

There is an ongoing flow of information among the stakeholders in the DUI tracking system and continuous reciprocity. Each organization needs information available from the DLD master database and provides data to be added to the system. It is via the DLD record keeping functions that accessibility to DUI-related information about Utah-licensed drivers is provided. How this is accomplished is explained more in detail in the following sections.

The organizations introduced below are the stakeholders involved in the critical path of DUI offenders. Each stakeholder participates in accessing or providing data and information to the DUI tracking system within the DLD Driver Records System.

Law Enforcement Agencies (LEA)

Utah's law enforcement agencies (LEAs) involved in processing DUI offenders include sheriffs offices, city police/others (including tribal, university, etc. police), and the Utah Highway Patrol. They are supported by dispatchers and other staff located at the officer's police station. Authorities in all state jurisdictions use an uniform "DUI Summons and Citation" form for each arrest.

During 1993, the sheriffs offices made about 18 percent of the arrests, the city police/ others made about 59 percent of the arrests, and the highway patrol made 23 percent of the DUI arrests.

Department of Public Safety, Driver License Division (DLD)

The Department of Public Safety, Driver License Division (DLD) is responsible for administering the state's administrative *Per Se* Law and license sanctions. Citations are checked for completeness and correctness (no action is taken if the form is incomplete or incorrect), and the Department holds administrative hearings at the timely request by offenders.

The Division is responsible for maintaining Utah's driver records, including convictions for DUI. The state traffic records system is designed so that a Utah driver's record is the main file where information on the individual's history of driving infractions, arrests, suspensions, revocations, etc. is maintained.

The Utah DUI tracking system is a subset of a larger Driver Record database. The input and extraction of driver data and information occur by both hard copy exchange and electronic transfer among participating agencies. State agencies can access information in the Driver Record System using special access screens.

Court System: Courts, Counsel, and Probation Agencies

The activities of the Utah State Court System are directed by the Utah Judicial Council. The Judicial Council was created in 1973 to unify the policies and procedures of the trial courts of the state and to better provide for the needs of each court. To facilitate this goal there is a state court administrator whose work involves planning, maintaining, and updating information technology, as well as providing information services and other functions. The state court administrator is assisted by the district, circuit, justice, and juvenile court administrators in performing these functions.

The state court administrator gathers adjudication information that is stored in the system databases. Relevant information from these databases is transmitted to other agencies needing the information, such as the state prosecuting attorneys and public defenders, as well as DLD. The court administrator provides DLD with DUI conviction and sentencing information for each DUI case pending adjudication.

State and state-appointed counsels are charged with prosecuting and defending, respectively, offenders for the criminal act of DUI. Counsels have access to DLD records via special access screens and to court records for court dockets and criminal histories.

The court also utilizes the services of private probation agencies to monitor compliance with sentencing. The private companies assist the courts in monitoring an offender's progress toward fulfilling sanctions. When sanction requirements are completed or if the offender is not complying, the companies notify the courts so that appropriate action can be taken.

Education, Treatment, and Rehabilitation Facilities

Utah's Department of Human Services (DHS) licenses all facilities authorized to assess, educate, or treat DUI offenders. Facilities are licensed to provide Level I and Level II DUI Education Programs, detoxification center services, outpatient treatment, day treatment, and inpatient programs. Court-ordered assessments must be conducted by a state-licensed facility.

III. DWI TRACKING SYSTEM DESIGN & DEVELOPMENT

There are about 12,000 DUI arrests in Utah each year. Of these, about 18% are arrests of out-of-state drivers.

III.A. Description

In the state of Utah, DUIs are tracked by the Department of Public Safety, Driver License Division (DLD). The DUI tracking system is actually a subset of the DLD Driver Records System. The Driver Records System contains the master database of data for Utah-licensed drivers. The master database contains data fields that comprise each licensed individual's driver record. Regular reports received from the courts allow DLD to update driver records with notations of all judicial proceedings related to DUI cases. In addition to records of DUI arrests, charges, pleas, disposition, and other matters of counsel, a driver record includes driving histories transferred from other states where prior licenses were held and updates of new events that occur while a Utah-licensed driver. The system also keeps records of traffic violations for drivers with out-of-state licenses on an event basis. The system provides information to the home state of the driver but it is not intended to maintain driver histories for non-Utah licensed drivers.

The traffic records system is managed by the MIS Division of the Department of Public Safety. The MIS Division has a director, program analysts, LAN administrators, and other technical support personnel. The division maintains and updates the traffic records system on a daily basis. To accomplish this the division uses three full-time programmer/analysts dedicated to DLD work. In addition, one manager and a technical support staff are used part-time to test changes made by the programmers for DLD. Both the MIS Division and DLD are located in the same building which enables them to work together effectively.

III.B. Design

The DUI Tracking System in the state of Utah is maintained by the Department of Public Safety, Driver License Division (DLD). The DUI Tracking System is actually a subset of the DLD Driver Records System. The Driver Records System contains the master database of data for Utah-licensed drivers. The master database contain data fields that comprise individuals' driver records.

The present software system is designed on individual records. All elements (fields) in the database are tied to the record of an individual. The basic record information is gathered to issue drivers licenses or identification cards that are provided by the Driver License Division. Citations issued by Utah police are linked to driver records by driver license number. When a citation record for a driver's license issued out-of-state must be entered

into the system, a "skeleton" or "dummy" record is entered which contains some of the information normally placed in a Utah driver's file.

In addition to the basic information and citations, the driver file also contains letters for all license sanctions, driver license cancellations, actions taken by DLD, court actions including dismissals, pleas in abeyance, amendments, address changes, reinstatement fees, administrative hearings held, courses taken, medical files, DUI convictions, uninsured driver files, insurance coverage dates and cancellations, note files, driving test results (written and driving special examinations), and the surrendering of a Utah license in another state.

III.C. DUI Data

The Utah driver license database contains about 1.6 million driver records. The driver record for each driver with a Utah operating license includes 53 fields used for DUI reporting and additional fields used for identifying information. The input and extraction of data and information occur by both hardcopy exchange and electronic transfer. The fields contained in the driver license database include:

Arrest ID	Date Fine Paid	Route DUI Occurred
Conviction Date	Jail Days Suspended	Comm Hazard Code
First Trial Disposition	Probation	Conv Batch Number
DUI Court Origin. No.	Referred to Treatment	Drug Test
DUI Failure Code	Comm Serv Hrs Assigned	Drug Code
Arresting Agency	Courses	DUI Test
Arrest Date	Course Date	Charges
Action Date	Date Treatment Completed	AAMVA Code
Location Code	DUI AAMVA for Conviction	Citation Deficiencies
Arrest Time	MVR End Date	Driver License Number
Licensed in State	BAC	License Date
Docket Number	Type of BrAC Test	Last Modified
Dismiss Code	Blood Test Pending	UID
Arraign Date	Officer ID	Modify Date
Final Trial Appeal	Drug Evidence	Modify Time
Amount of Fine	Refusal of BrAC Test	
Fine Amount Suspended	Driving Motorcycle DUI	
Treatment Fee	Involved in Accident	
Length of Sentence - Jail		

DUI arrest data are linked to drivers in this database. Related, follow-up data, such as disposition, are added as information becomes available from DLD administrative hearings and court adjudication. Citations are not associated with arrests in the database. Data fields, such as age, sex, etc. in each record enables the Driver License System to generate reports identifying characteristics of the DUI population. Database records can be compiled for individual driver records or for cumulative statistics.

III.C.1. DUI Management Reports

The Driver License System can process the following "DUI Reports" with any start and end dates and by AAMVA code for options 15 and 16.

The following menu comprises available DUI reports:

- | | |
|--------------------------------------|---|
| 1. Arrests by County | 10. Citation Deficiencies |
| 2. Arrests by Month | 11. Court Type |
| 3. Arrests by Police Agency | 12. DUI Hearings, Suspen. & Revocations |
| 4. Arrests with No Convictions | 13. Convictions by Court ORI Number |
| 5. BAC Level | 14. No-Action Alcohol Hearing by ORI |
| 6. Arrests and Convictions by County | 15. Arrests by AAMVA Code |
| 7. Convictions | 16. Arrests by AAMVA Code (All) |
| 8. Fines/Fees | |
| 9. Arrests by Sex and Age | |

Other reports available on the Driver License System include the "Hearing, Drivers Ed, and Work Reports" that can be processed by beginning and ending dates and station. They are:

- | | |
|------------------------------------|-----------------------------|
| 1. Hearings by Station | 7. Workload by Station |
| 2. Hearings by Officer and Station | 8. Number of Drivers by Age |
| 3. Hearings by District | 9. F/R Alpha List |
| 4. No Action Alcohol Hearings | 10. Department Actions |
| 5. Drivers Ed by Station | 11. CDLIS Report |
| 6. Drivers Ed Acc/Viol by Station | |

III.C.2. Driver Records

There are about 1.6 million driver records in the Utah Driver License System database. Each driver record is identified by Utah driver license number. Complete driver information, including all arrests (whether or not convicted), reduction of charges, etc., are accessible only to DLD. Other agencies, such as the courts, may access driver record information using specific access screens (see subsection III.C.3., "Database Access" for more detail) which display restricted information from the driver license database. The current system has a maximum capacity of 140 records for each history. If a record goes beyond 140 records, the oldest offenses are manually purged to make room for the new records.

DLD Master Driver License Database

Personal data are collected from individuals' applications for Utah driver licenses. The personal data recorded in the database include basic personal information, such as:

- | | |
|-------------------|----------------------------|
| Full Legal Name | Height |
| Residence Address | Sex (Gender) |
| Mailing Address | Hair Color |
| Weight | Social Security Number |
| Eye Color | Mother's Maiden Name |
| Date of Birth | Applicant's Place of Birth |

In addition, the application makes inquiries regarding licenses and loss of driving privileges in other states, including the state, license number, and cause. Currently, hard copies of driver records are exchanged between states when re-licensing. Utah will have electronic connectivity to the Problem Driver Pointer System (PDPS) by April 30, 1995, at that time, DLD plans to transfer driver records via the same electronic communication lines with PDPS data. If a search of the PDPS indicates problems in other states, a Utah license may be denied.

The system also keeps records of traffic violations for drivers with out-of-state licenses on an event basis. The system provides information to the home state of the driver, but it is not intended to maintain driver histories for non-Utah licensed drivers.

"Skeleton Licenses"

As stated, about 18% of Utah's DUI arrests involve drivers with out-of-state licenses. DLD processes DUI offenders with out-of-state licenses similarly to in-state license holders, but out-of-state license holders do not surrender their licenses to Utah police when a DUI citation is issued because Utah LEA cannot legally provide a Utah permit to out-of-state drivers. When the sanction becomes effective on an out-of-state driver, DLD sends a copy of the complete DUI report to the driver's home state.

DLD creates a "skeleton" driver license file for out-of-state drivers or drivers without licenses. The skeleton is created for record keeping purposes. Since the DLD database contain histories only for drivers licensed in Utah, the case file contains only basic identification information that is usually provided by the driver and is verified to the extent possible (using other sources of information, such as vehicle registration). The skeleton license does not include complete personal information. For example, the gender (sex) of a driver is not included in a skeleton driver license. Furthermore, some self-identifications are invariably false creating the problem of correctly identifying drivers so that correct records can be kept and appropriate sanctions can be administered.

DUI Histories

All events, including citations for traffic violations and DUI violations and their court dispositions are recorded on a driver's record in the master database (but it does not maintain sentencing or compliance records). Although each organization involved in the arrest, adjudication, administrative processing, punishment, and treatment (critical path) of a DUI offender maintains its own records of events, only the DLD master database contains comprehensive records on all events for each offense tracked by driver. Each organization is responsible for reporting to DLD specific, required data to be added to the master database regarding DUI-related activities.

Data for each event are linked to an individual's driver record by his/her Utah driver license number; therefore, complete driver history, including DUI arrests and convictions, can be compiled with the DUI Tracking System. The Driver License Division does make available sanitized record information for the purpose of research on highway safety. Statistical reports can be generated for cumulative, DUI-related events activity and trends in the state of Utah.

III.C.3. Database Access

The DLD database, containing DUI information, can be accessed using one of seven major access screens. The system provides driving records to officers in the field, the courts, insurance agencies, state agencies, etc. with specific access screens designed for use by various stakeholders. The following list briefly describes the seven major screens that are available for utilization by those organizations eligible to use the system.

DUI TRACKING SYSTEM ACCESS SCREENS

1. Law Enforcement
2. History
3. History and Address
4. DLR Enhancement Screen
5. DLR or MVR Screen
6. Court Screen
7. Corrections - Human Services Screen
8. Other - Problem Driver Pointer System

1. **Law Enforcement Screen** - This screen is available to officers or their dispatchers. It provides driver information, such as height, weight, and outstanding warrants. In general, dispatchers rather than officers have access to the system. However, a few officers in Salt Lake City and in outlying areas have laptops in their vehicles and can access this screen directly from their vehicles.
2. **History Screen (Basic Information)** - This screen gives a complete Utah driver history for each driver and is accessible only by DLD. It is used by staff of the Driver License Division for internal management functions needed to conduct operations.
3. **History and Address Screen** - This screen provides prior address information, licenses issued, citations, etc within the state of Utah. It is used primarily by other state agencies to conduct skip searches and other administrative tasks.
4. **DLR Enhancement Screen**- This screen provides the current address and prior addresses, if a license has been surrendered, etc. It is used by the tax commission to obtain necessary information to carry out their functions.
5. **Driver License Record (DLR) or Motor Vehicle Record (MVR) Screen** - This file contains information on moving violations and DL actions for the last three years. Alcohol/drug violations and actions will remain on record for six years. It is available to insurance companies in hardcopy form or via 9-track tape. Individuals may obtain records on hardcopy.
6. **Court Screen** - This is a complete file which provides a comprehensive record of an individual's driving problems while licensed in Utah. This screen is used by the courts

to review the driver's record, including prior convictions, and to search for information, such as reinstatement dates, tickets held in abeyance, etc.

- 7. Corrections - Human Services Screen** - Contains all the information as on the Court Screen, but does not show reinstatement dates.
- 8. Other - Problem Driver Pointer System** - The Problem Driver Pointer System is in production to be brought online.

III.D. Development

During the early and mid-1980s all traffic records were kept on an IBM mainframe and the DUI system was kept on a separate Wang system. The IBM software and hardware combination made it difficult to change the record format and size. If an additional field was needed in the record, at times, an old field had to be used to capture the newly needed information and consequently the old field was overwritten. This would change the information on the system but not the information which was stored on microfiche. If one did not know about the change, one would continue using the field as if it were the older variable. This caused confusion and difficulty in using the records.

As legislative requests required more information, it became apparent that a new system that enabled the addition of new data fields in just a few hours instead of months was needed. As a consequence Utah developed a Request For Proposals (RFP) which outlined the new system requirements. Among other things, the RFP required the DUI system become a subset of the traffic records system.

Digital Equipment and Software AG submitted the winning proposal in 1988. Hardware was installed and Software AG began developing the ADABASE software files necessary to handle the traffic records system which consisted of about 1,500,000 driver records. In October, 1989, the commercial license component of the system was started and by January, 1990, the regular driver license component was completed and put into use. The software and applications programming cost Utah about one million dollars. In addition, the system now handles the administration of the Motor Voter legislation. The drivers license application has a check box for voter registration so that one can apply for a driver license and register to vote at the same time.

The Utah court system commenced a statewide conversion of old WANG terminals to PCs using Natural language during the early 1990s. Currently, with the exception of a very few smaller court locations, all court computers have been replaced with PCs. The cost of hardware conversion was approximately \$1 to \$1.5 million.

IV. UTAH'S CRITICAL PATH

Due to its dynamic functional relationships, the Utah DUI tracking system needs to be described in context with the sequence of procedures that comprise the critical path. Along the critical path, there are several points of information exchange and various paths of information flow that make the administrative and judicial systems more effective. To help clarify these complex relationships, the explanations of both procedural processes and information flow are illustrated with flow diagrams and summarized in text boxes.

UNDERSTANDING THE FLOW DIAGRAMS

The flow diagrams illustrate both the sequence of procedures and exchange of information involved in the critical path of a DUI offender. The procedural steps comprising the critical path are colored in **black**, the data and information accessed by state organizations (*i.e.*, LEA, court, etc.) are colored in **red**, and the new data and information that is used to update the system database are colored in **blue**.

Furthermore, the communication paths indicating information access and input are distinguished as electronic transfers (solid lines) or hardcopy submissions (dotted lines). Since access and data collection are the key aspects of a successful tracking system, the significance of electronic versus hardcopy reporting will be discussed, also.

IV.A. Arrest and Citation

DUI arrests are performed by officers from city, county, and state police jurisdictions. Other policing agencies, such as Port-of-Entry, Parks and Recreation, and Campus Security Agencies, are capable of identifying impaired drivers and notifying an authorized LEA for DUI arrests. For example, Port-of-Entry agents can recommend the administrative revocation proceedings of a commercial driver's license if the driver is tested for BrAC of .04 or greater, but if the BrAC is .08 or greater the agents must notify an authorized LEA officer to issue the DUI Summons and Citation and to arrest the driver for DUI.

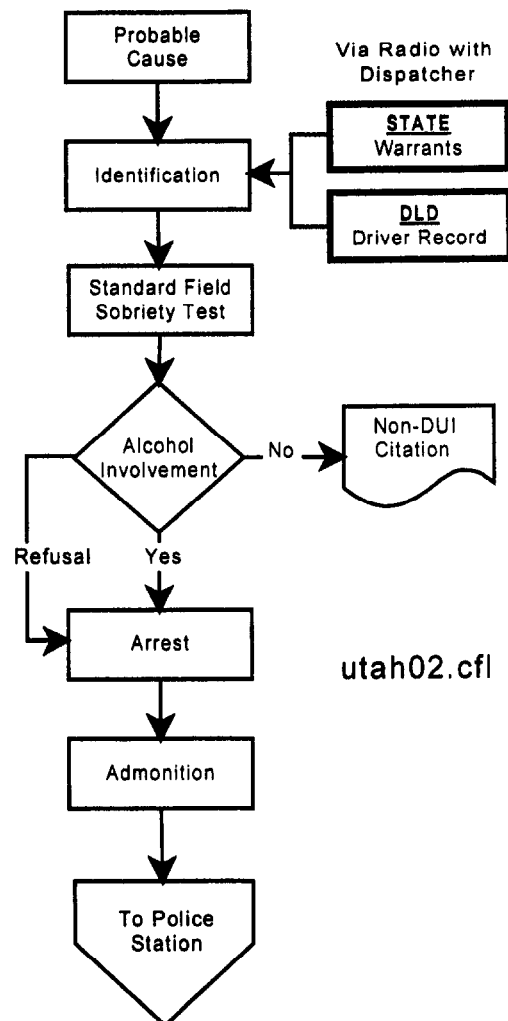
Probable Cause - Law enforcement officers stop drivers if they have reasonable or probable cause of a violation of Utah laws, such as speeding, swerving, running a red light, etc.

Identification - During driver identification and verification with LEA dispatch, if the officer suspects alcohol involvement, the officer will initiate steps for DUI arrest. Utah police can access Utah DLD driver records via radio communications with the LEA dispatcher. Using the "Law Enforcement Screen" the dispatcher accesses the Driver License Division's database by entering the Utah driver license number or the name of the offender. This screen provides information such as name, DOB, address, height, weight, eye and hair color, license type, restrictions, license status, and outstanding warrants.

Standard Field Sobriety Test - The police officer will administer a Standard Field Sobriety Test to determine alcohol involvement.

Admonition - If the officer suspects involvement, he/she is required to read an admonition of the driver's rights.

To Police Station - The breath analysis for alcohol concentration is conducted at the police station, as well as booking and possible detainment.

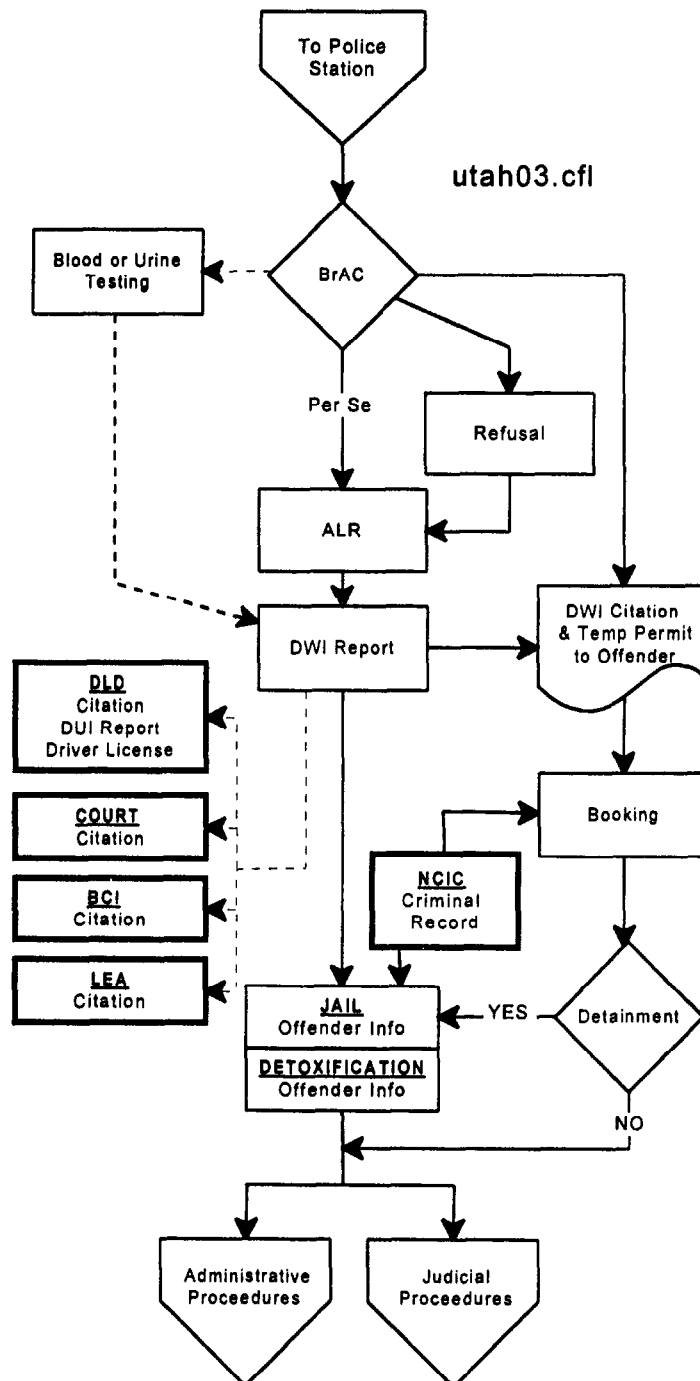


Breath Analysis - Analysis of breath alcohol concentration (BrAC) is conducted at the police station using an evidentiary breath analyzer. Utah LEAs use the Intoxilizer 5000, a device with the functional capability to download test data to a networked database. The Intoxilizer is regularly calibrated and provides printed results of two pretest calibration tests, arrestee's breath analysis, and a post-test calibration test. The arresting officer may also choose to request a chemical test for alcohol and/or drugs in addition to or instead of the breath analysis.

A Salt Lake City police officer reported that chemical test results processed by state toxicology laboratories or hospitals are normally not used for the hearing because results come back too late or not at all. Overloaded lab schedules were assumed to be the cause of the failure to obtain timely results.

Refusal - During the arrest process, if the driver refuses to submit to a breath or chemical test, Utah's implied consent law mandates that a refusal is subject to automatic administrative license sanctions (ALS). This also applies to a refusal by a commercial driver. Test results or refusal is recorded on the DUI Report form (of the Summons and Citation) by the arresting officer and the hardcopy printout of the results is included in the case file.

Administrative License Sanctions - Utah's administrative license sanctions (ALS) laws allow the officer to take possession of the driver's Utah license or permit at the time of the arrest. The license is transferred later to DLD. The citation itself can be used as a temporary driving permit for 29 days from date of arrest although the temporary permit may be invalidated by the arresting officer with reason.



If the driver possesses an out-of-state license, the arresting officer does not have jurisdiction to issue a temporary driver permit within the state of Utah. The driver keeps his/her out-of-state license but must abide by all the requirements of the DUI citation. If within 29 days the driver fails to request a hearing, the home state of the driver is notified of the citation and arrest.

DUI Summons and Citation - During each arrest a "DUI Summons and Citation" form is completed. The DUI Summons and Citation form must be correctly and completely filled out, signed by the officer, and served directly to the offender. In conjunction with the alcohol-related offense, a Utah DUI citation can include other non-alcohol related violations.

Booking - Although all offenders are fingerprinted (right index finger) for the state BCI copy of the DUI Summons and Citation and booked, not all DUI offenders are detained when brought to the police station. DUI offenders must be booked within 72 hours of arrest in order for criminal procedures to commence. An offender tracking number (OTN) is assigned to each defendant booked for a criminal offense. This number is also used to search for the defendant's criminal history, if any. While BrAC tests are conducted and arresting officers complete their reports, the booking officers may conduct additional background checks for criminal histories or other information.

Detainment - Intoxicated offenders spend time in holding cells, or may be sent to detoxification centers until sober, or they may be booked and jailed immediately. Once the arresting officer has served the offender with the Summons and Citation, the officer transfers custody of the offender to the jail.

Reporting - The LEA is required to report all citations to several stakeholders. A duplicate copy of the completed DUI Summons and Citation is given to each:

- Court (two copies)
- Bureau of Criminal Identification (with fingerprint of right index finger)
- Driver License Division (with DUI Report)
- Issuing Agency
- Defendant

The DUI Summons and Citation, a two-part form, includes a half-sheet form (three duplicates) that are mailed to the court in the county of arrest and to state BCI. After trial, the disposition is also noted by the courts on the form. The form contains the following information:

- Citation Number
- Offender's Name, Date of Birth, Address
- Offender's Driver License Number & Information
- Physical Details
- Social Security Number
- Vehicle Information & Condition
- County and City of Arrest
- Notice to Appear in Court
- Court Jurisdiction and Location
- Violation(s), Time, and Location

A full-sheet form (three duplicates), given to DLD, the offender, and issuing agency, contains the above information and additional information regarding the "Notice of Intent to Deny, Suspend, Revoke, or Disqualify." It describes the DUI violation of the offender, the offender's right to hearing, and instructions for requesting an administrative hearing. The DUI Report form is also mailed to DLD.

Strict compliance must be met completing the citation form since incorrect or incomplete information can cause an administrative "no action" on the offense and dismissal from administrative penalties. Also, licenses are reinstated pending judicial disposition.

Common citation deficiencies that lead to "no actions" in the state of Utah include: citation incorrectly filled-out by officer, no admonition given to defendant, report cannot be read, etc. In January, 1995, over 150 citations for 808 arrests were dismissed with no administrative actions due to citation deficiencies before the close of the month. Arresting officers are also required to serve the citation directly to the offender to avoid dismissal; papers left with the offender's possessions are not considered in compliance with procedures and such cases are dismissed with "no action."

There is indication that the reporting process is flawed. A preliminary study conducted at by police officers in the Salt Lake City Police District estimate a discrepancy rate of up to 10% for the number of citations issued by Salt Lake City police and the number of cases heard. How these citations are being "lost" is not clearly understood. The report on these findings is being prepared at this time. It should be noted that citations are not inventoried upon distribution, and there are no requirements to report unused or discarded citation forms.

IV.B. Administrative Proceedings

DUI Report Forms - The Department of Public Safety, Drivers License Division (DLD) receives all DUI reports issued in the state of Utah. All LEAs mail or deliver the hardcopy citations to DLD with each relinquished driver license attached to its respective citation.

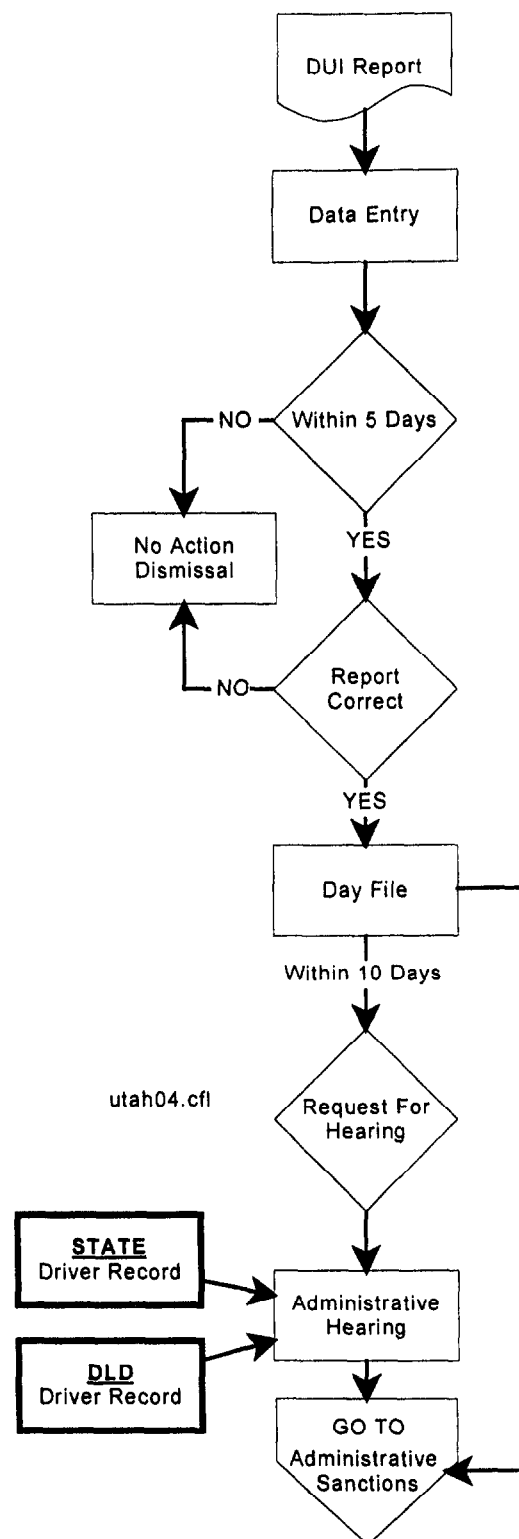
Utah statutes require citations to be received by DLD or postmarked within five workdays⁴. In addition to physical (hardcopy) files, DLD also keeps records on microfilm or on optical disc. All information is filed by batch number on microfilm and by license number on optical disc.

Data Entry - DLD data entry clerks input each arrest into the Driver License System running on a DEC system located in the Driver License building. The database contains information on all citations irrespective of subsequent administrative or court decisions.

No Action - DUI Reports not received or postmarked by the fifth day are automatically dismissed and the appropriate "deficiency code" noted on the driver record. Similarly, if the report is incorrectly filled in or incomplete, the error is noted as a deficiency and cause for "no action." Letters informing the person that the department is not taking action on the arrest are generated and mailed.

DUI Report Correct - If the Report is in order, it is included in a "day file" and administrative action continues.

Request for Hearing - Each defendant has the right to a hearing granted by the Drivers License Division to determine if driving privileges are to be withdrawn or reinstated. If a request for hearing is received within 10 days of the date of arrest, the appropriate case is pulled from the "day file" and a hearing is scheduled within 29 days from the date of arrest. If the department's decision is to withdraw driving privileges, the defendant has 30 days to file an appeal of the action in the appropriate court.



⁴Utah law of civil procedure stipulates that only "workday" be counted for periods under seven (7) days, otherwise "calendar days" be counted.

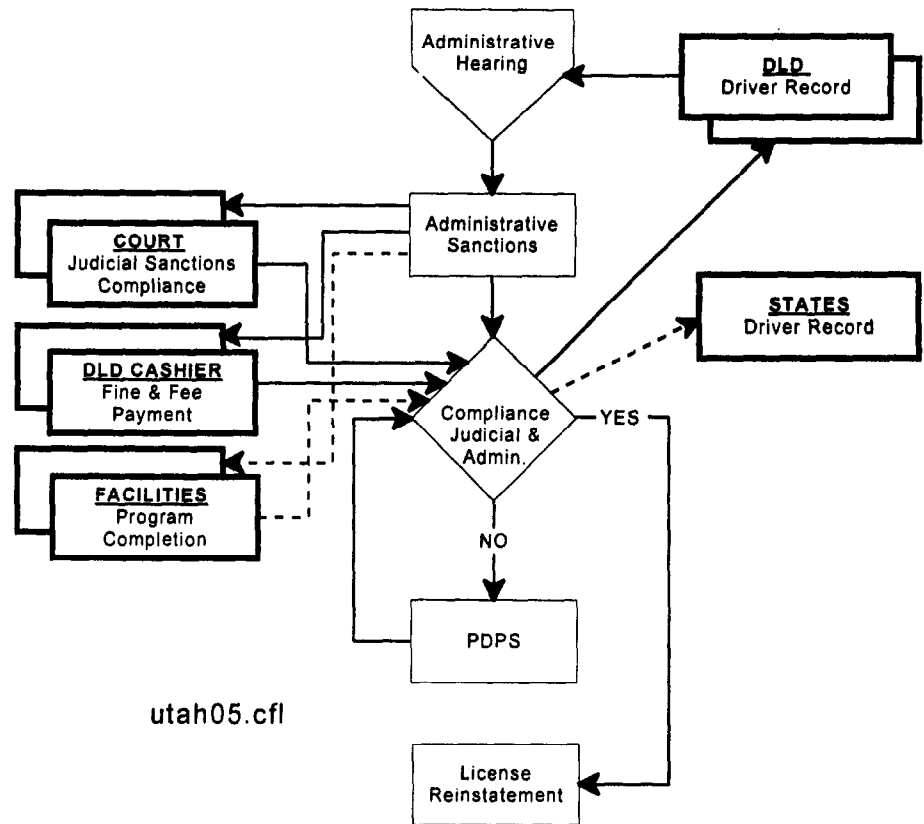
If a hearing is not requested, the appropriate letter is generated on the 24th day from the date of arrest. The letter is mailed so that the person receives the notice prior to the effective date of the withdrawal.

Administrative Hearing -

Administrative hearings operate separately from judicial court hearings. The purpose of hearings is to decide whether licenses will be reinstated or withdrawn.

Administrative Sanctions -

Administrative sanctions may include withdrawal of license, administrative service fee, and reinstatement fee. Two or more administrative actions within six years by themselves may require the completion of a state approved alcohol/drug rehabilitation program.



Compliance - Prior to reinstating licenses, DLD requires compliance with all administrative penalties. DLD requires the driver to provide proof of completion from education or treatment facilities, if it is part of the imposed sanctions. DLD collects administration fees and reinstatement fees from the driver. The driver is responsible for paying any required education or treatment facility fees.

License Reinstatement - If compliance with administrative sanctions is not met, reinstatement of a Utah driver license will be denied and information will be provided to other states in which the offender attempts to obtain a driver license. Utah participates in the national network sharing the Problem Driver Pointer System and Commercial Driver License Information System, as well as actively complying with the provisions of the Interstate Compact.

Updating Driver Record - Once DUI reports are received from LEA, DLD updates driver records of the occurrence of the violation. DLD continues to update the driver records with changing driver license status. Because DLD offices are online, they are able to check on

an individual's status and reinstatement requirements at any time. Once reinstatement requirements are met, the record is updated and the driver license is made valid. Other stakeholders, such as treatment and education facilities do not have online communication capabilities with DLD. Completion notification with treatment or education programs are usually hand delivered by the offender to DLD when making applications for reinstatement of their driver licenses. Drivers cannot get their licenses back without completion of all administrative sanctions.

DLD is also responsible for administering the provisions of court-mandated license sanctions. DLD receives regular reports from the courts notifying them of convictions.

IV.C. Judicial Procedures

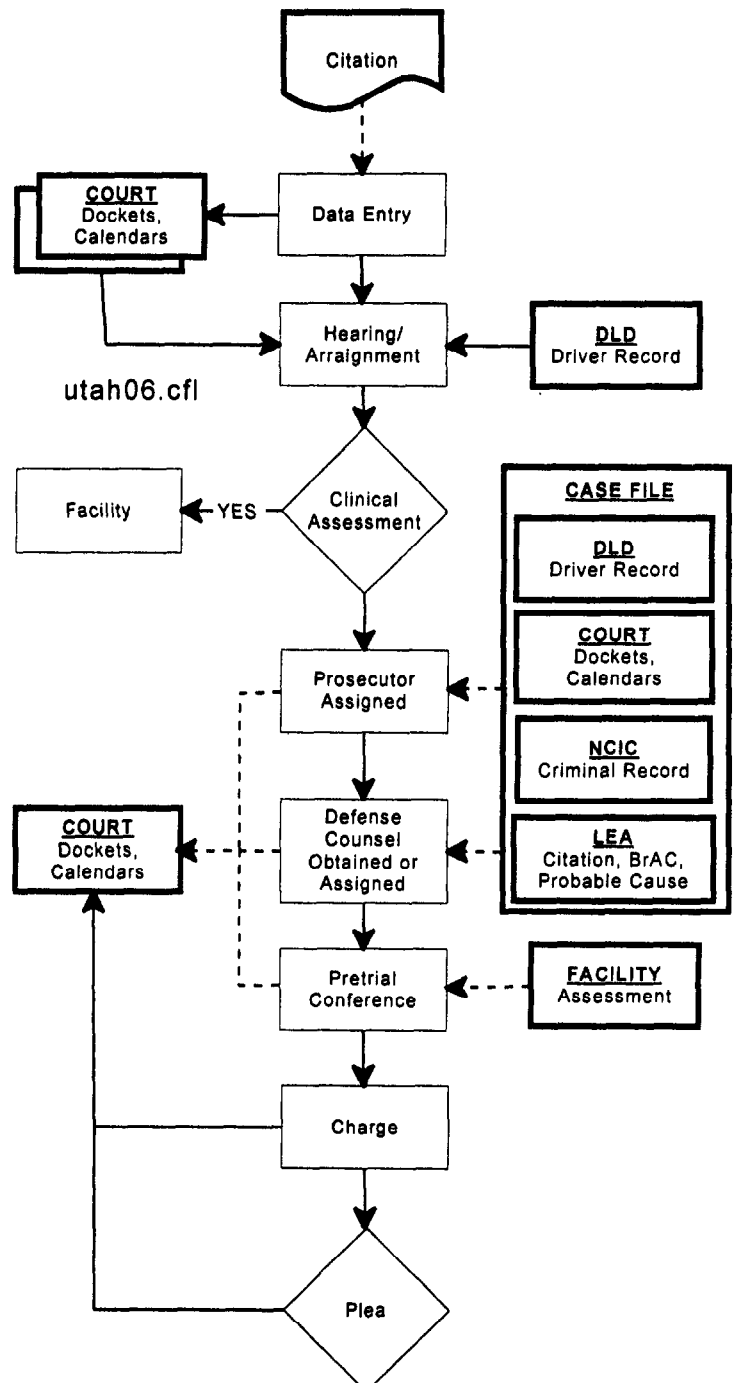
In the state of Utah, DUI cases are normally heard in justice or circuit courts or in the court of appeals. Except for justice court judges, all court judges are law-trained. Justice court judges may not have necessarily received formal training. They are either county judges who stand for unopposed retention election or municipal judges who are appointed by city officials.

In Utah the first three DUI offenses are generally misdemeanors; the fourth and subsequent DUI offense are felonies. Justice or circuit courts hear DUI misdemeanor cases, whereas, DUI felony cases are passed on to district courts for hearing. DUI appeals are heard by the appeals courts. The 1994 Annual Report of state courts show 128 justice court judges, 22 circuit court judges, 38 district court judges, and seven (7) court of appeals judges who preside over 29 counties that comprise eight (8) judicial districts in the state of Utah.

According to a Utah state prosecuting attorney, the duration of time from date of citation to court sentencing averages approximately 60 days to pretrial proceedings and three to four months for trial in Salt Lake City.

Citations - The clerks of the court in which the summons is to be heard receive notice of all DUI citations issued in their jurisdiction. All LEAs mail or deliver the hardcopy citations to the court in the county of arrest.

Data Entry - The clerks of the court create case dockets from hardcopy citations provided by the issuing agency. The courts maintain their own court information system. The clerks continuously update the case dockets with information regarding court proceedings, trial procedures,



sentencing, evidence of fines paid, status of sanctions, penalties, and probation compliance, including DUI education and/or treatment.

Arraignment Hearing - Court and location of the hearing is provided on the DUI Summons and Citation served to the offender at the time of arrest. The offender must appear for an arraignment hearing no less than five days nor more than 14 days after issuance of citation. According to the severity of the violation, cases are assigned to the roll call calendar or for felony arraignment.

Assessment - The court can order the offender to obtain a clinical assessment for a problem condition involving alcohol or drugs. This assessment can be completed at a drug dependency rehabilitation facility approved by the Department of Human Services. The offender brings the assessment to trial.

Pretrial Conferences - First time offenders and other misdemeanor A and B charges are placed on the roll call calendar for trial. There are separate arraignments for felony offenders and "enhanced DUI" charges (felonies). Felony arraignments are preceded by appointment of defense counsel if the offender cannot afford one of his or her own.

Public defense counsels conduct pre-trial conferences with the offender to review past driving records and any prior alcohol-related convictions. A public prosecutor is also assigned to the case and a physical file is created by the public prosecutor for all DUI cases appearing before a state court of the state. The case file may contain information including:

- DUI Citation
- Probable Cause Statement
- "Fact Sheet" or screening information
- BrAC Test Results
- Standard Criminal Record (Accessed Online from BCI Using Offender Tracking Number)
- Driver Record (Provided on Hardcopy by DLD)
- Court Records and Docket (Accessed on-Line)
- Jail Information (Accessed on-Line)

Charge - The prosecuting attorney reviews the driver record and, dependent upon the severity of the violation, determines the criminal charge for trial. Counsel requires timely access to up-to-date information regarding history and updates on current procedures. The lack of comprehensive docket information on prior convictions and complete information on prior convictions for sentencing is regarded as problematic by prosecutors. Often, incomplete information on prior sentencing and compliance is available to the prosecuting attorneys at the time charges are made.

Pleas - Offenders and their counsel may plead guilty, *no lo contendere*, or "Not Guilty". DUI may be reduced to "alcohol-related reckless" driving, but any reduced plea must make note of alcohol involvement.

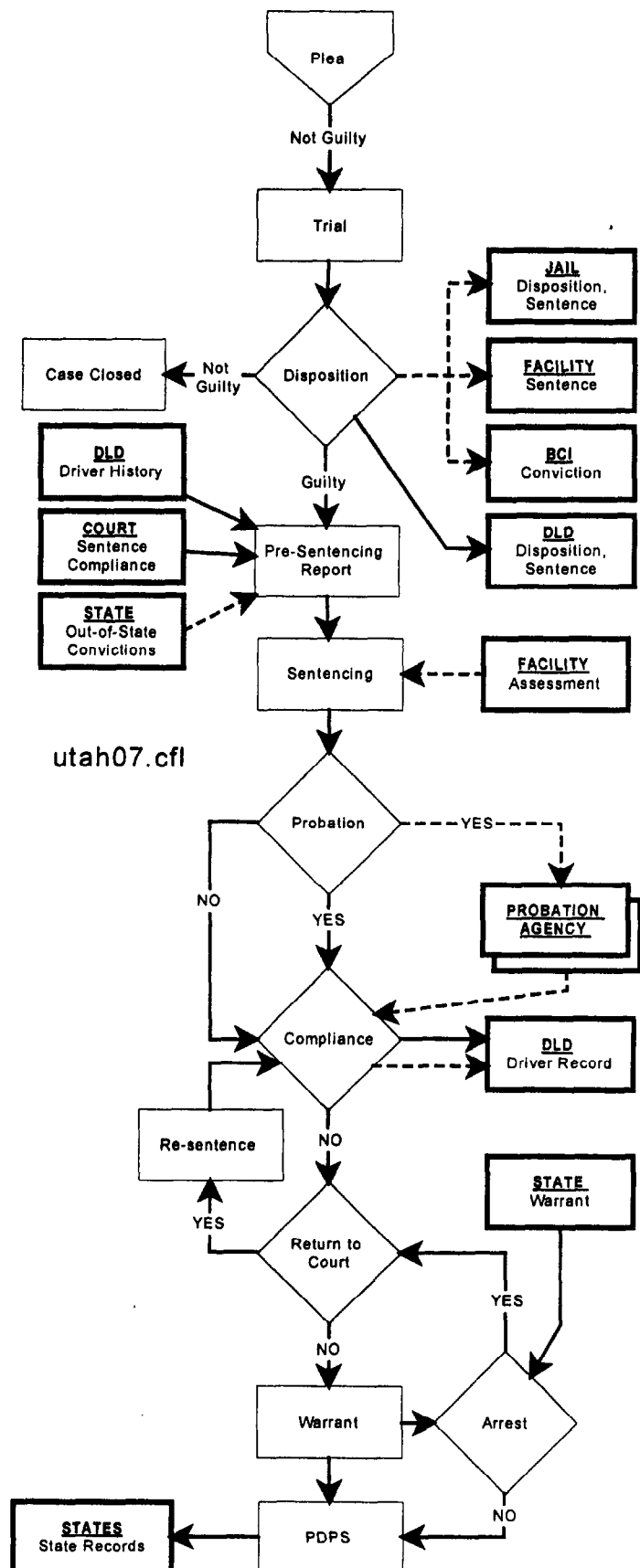
Trial - DUIs are considered criminal violations in the state of Utah. All DUI arrests are adjudicated in criminal courts (separate from administrative license sanctions hearings).

Disposition - If judged guilty by the court, factors such as clinical assessment, driving and criminal history, and severity of the violation is considered for sentencing.

Pre-Sentencing Report - The court may delay sentencing so that more thorough background information can be collected for the pre-sentencing report.

Sentencing - The court can levy sanctions in accordance with Utah statutes and/or local ordinances. Utah law provides sanctions including: 1) jail sentences, 2) community-service work, 3) drug and alcohol treatment, and 4) fines. The court notifies DLD of case disposition to update driver records that contain records of conviction. Following completion of mandatory sentences imposed by the court, any probation and parole included in the sentence will begin.

Probation - The courts may order DUI defendants to be placed under probation with adult probation facilities such as the Alcohol Counseling & Education Center (ACEC) and Adult Probation and Parole Management (APPM) to encourage compliance with court sentencing. These privately-managed facilities provide defendant assessments and make recommendations for judicial action as well as monitor driver's progress toward fulfilling sanctions.



Compliance - The court notifies DLD whether the offender has completed sanctioned requirements, including payment of all fines and fees. Non-compliance can lead to posting an arrest warrant for the offender and being brought back to court. DLD records the notification of compliance or non-compliance on the driver record. DLD can then reissue the suspended license at the appropriate time.

Updating Driver Record - All pretrial and trial procedures are monitored by court administrators. Notice of each event is provided to the clerks of the court so that case dockets can be updated. Probationary progress and compliance with court sanctions, are also reported to the courts by the probationary agencies with hardcopy reports.

DLD receives information from the courts either directly from the local courts or via the Administrative Office of the Courts (AOC). Updates of court disposition and compliance with sentencing is electronically entered into the DLD master database from digital reports submitted by the courts on floppy disks or through BBS connections. Eighty percent of the submissions received by DLD are in electronic format. The remaining reports are received on standardized hardcopy monthly reports, usually from smaller, rural justice courts in Utah.

The court clerks submit reports to DLD biweekly, but busier courts, like the Salt Lake City Circuit Court, generate reports daily and deliver tapes to DLD on a daily basis for update into the DLD database. Each court also provides DUI disposition information to the Bureau of Criminal Investigations on the DUI Summons and Citation hardcopy on a monthly basis.

The court's information systems are LAN-based networks that connect every court in the state, with the exception of some rural justice courts. Regular reports to the Administrative Office of the Courts in Salt Lake City can be submitted via electronic bulletin boards, on tape, or as hardcopy reports. Whereas all circuit and district court reports are submitted in digital format, at certain justice courts approximately 20% of 276,000 filings are provided to the AOC as hardcopy reports. These justice courts use standard duplicate forms that quantify monthly totals for cases filed in each court. The numbers describe types of cases filed, dispositions, administrative actions, workload, and revenues collected by type.

The state Administrative Office of the Court maintains an office for Information Technology and Information Services that coordinates the computer and electronic information technology and services for the courts throughout the state. The court information systems allow courts to have on-line access to internal court information, such as the cashiers' record and dockets, and to external information systems, such as the Driver License Division databases, and to the Utah Courts Information XChange (an information clearinghouse for courts accessible by court employees, State Bar Association, and the general public).

IV.D. Education, Treatment, and Rehabilitation

All first time offenders are required to attend a basic Level I DUI Educational Program. Repeat offenders attend a more intensive Level II Program or other long-term substance abuse programs for outpatient, day treatment, or residential treatment.

The state of Utah licenses all facilities authorized to assess, educate, or treat DUI offenders. These facilities must be licensed by the Department of Human Services (DHS). Whereas substance abuse programs must be licensed by the health department, the Level I and Level II DUI Education Programs need only be licensed by the Department of Human Services. In addition, DHS also maintains five or six source detoxification centers in Utah like the 100-bed center in Salt Lake City. Intoxicated drivers may be brought to detoxification centers to stay a few hours or up to 10 days.

The DHS, Licensing Division, provides judges a list of licensed facilities with Level I and Level II DUI programs. Judges may use these facilities to conduct assessments. Probation facilities serve as the liaison between courts and the treatment facilities by monitoring defendant compliance and sometimes evaluating assessments from the facilities.

These facilities do not exchange information directly with the other stakeholders in this system. The DUI offender is responsible for providing to the court and to DLD physical proof of education or treatment completion. There is no direct transmission of data or information from the treatment facility to the administrative or judicial information systems.

Information management within the institutions of treatment facilities is limited to internal reviews that are conducted by industry associations using NDATUS, a data system for treatment facility statistics that generates yearly reports for licensed facilities. In addition, these facilities are responsible for their own administration and collection of fees which remain separate from DLD or court fees and fines.

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